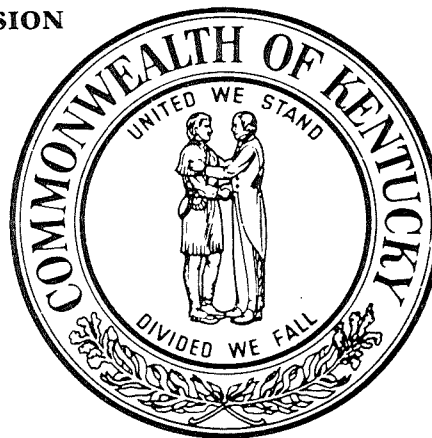


**LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY**

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UNLESS WRITTEN NOTIFICATION OF INTENT TO ATTEND A PUBLIC HEARING IS RECEIVED BY THE PROMULGATING AGENCY AT LEAST FIVE (5) DAYS BEFORE THE HEARING DATE, THE HEARING MAY BE CANCELLED.

MEETING NOTICE: The next meeting of the Administrative Regulation Review Subcommittee will be held on October 8 and 9, 1984. For information concerning this meeting, call 502-564-8100, ext. 535.

This is an official publication of the Commonwealth of Kentucky, Legislative Research Commission, giving public notice to all proposed regulations filed by administrative agencies of the Commonwealth pursuant to the authority of Kentucky Revised Statutes Chapter 13A.

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Title	Chapter	Regulation
806	KAR	50 : 155
Cabinet Department, Board or Agency	Bureau, Division or Major Function	Specific Area of Regulation

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Public Hearings

The administrative body shall schedule a public hearing on proposed administrative regulations, proposed amendments to administrative regulations, and proposed repeal of administrative regulations to be held not less than twenty nor more than thirty days following publication of the administrative regulation. The time, date, and place of the hearing and the name and address of the agency contact person shall be included on the last page of the administrative regulation when filed with the Compiler's office.

This information shall be published in the *Administrative Register* at the same time as the initial publication of the administrative regulation. Any person interested in attending the hearing must submit written notification of such to the administrative body at least five days before the scheduled hearing. If no written notice is received at least five days before the hearing, the administrative body may cancel the hearing.

If the hearing is cancelled, the administrative body shall notify the Compiler immediately by telephone of the cancellation with a follow-up letter and the Compiler will note upon the face of the original administrative regulation that the hearing was cancelled.

No transcript of the hearing need be taken unless a written request for a transcript is made, and the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript.

If an administrative body has several proposed administrative regulations published at the same time, the proposed administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings.

Emergency Regulations Now In Effect

(NOTE: Emergency regulations expire 90 days from publication or upon replacement.)

STATEMENT OF EMERGENCY

This regulation is promulgated pursuant to action of the Kentucky Retirement Systems Board of Trustees on August 16, 1984.

An emergency is declared to expedite the removal of option selection limitations that were placed on retiring members as mandated by TEFRA 1982. The Deficit Reduction Act of 1984 rescinded those limitations on a retroactive basis and the Board believes it is important to rescind the limitations set forth in subject regulation as soon as possible to permit retiring members to select from the full range of optional payment plans in conformance with the changes made by the Deficit Reduction Act of 1984.

It is intended that this emergency regulation will be replaced by an ordinary regulation within the time period authorized by statute.

MARTHA LAYNE COLLINS, Governor
CHARLES L. BRATTON, Agency Head

FINANCE AND ADMINISTRATION CABINET Kentucky Retirement Systems

105 KAR 1:080E. Payment options for members and beneficiaries to conform with *Section 401(a)(9) of the Internal Revenue Code* [the Tax Equity and Fiscal Responsibility Act].

RELATES TO: KRS 16.505 to 16.652, 61.510 to 61.705, 78.510 to 78.852

PURSUANT TO: KRS [13.082,] 16.650, 61.640, 61.645, 78.780

EFFECTIVE: August 31, 1984

NECESSITY AND FUNCTION: The provisions of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), specifically section 401(a)(9) of the Internal Revenue Code, *became* [will be] applicable to the Kentucky Retirement Systems effective July 1, 1984. Section 401(a)(9) as amended by TEFRA set forth new requirements for benefit distributions by "qualified" pension plans. The new requirements *limited* [will limit] the availability of some of the benefit options [presently] pro-

vided in KRS 16.510 to 16.652, 61.510 to 61.705 and 78.510 to 78.852. *Section 401(a)(9) was further amended by the Deficit Reduction Act of 1984 and most of the limitations imposed by TEFRA were removed.* This regulation is promulgated under the authority set forth in KRS 61.645 and is necessary to define specifically which benefit options are available to members and beneficiaries of members deceased prior to retirement in accordance with *Section 401(a)(9) of the Internal Revenue Code.* [The availability of the various options depends substantially on whether or not the member names a spouse as beneficiary.]

Section 1. A retiring member [designating his spouse as beneficiary] shall be eligible to select from: (1) Any of the payment options available under the statutes which govern the system in which the member participates; or

(2) Any of the options set forth in 105 KAR 1:090.

[Section 2. A retiring member, who previously completed an Option Reservation Form, designating someone other than his spouse as beneficiary, shall be eligible to select a payment option indicated on the Option Reservation Form or one (1) of the options available which does not continue for the lifetime of the beneficiary upon the member's death.]

[Section 3. A retiring member designating someone other than his spouse as beneficiary, shall be eligible to select from any of the payment options available which does not continue for the lifetime of the beneficiary upon the member's death.]

Section 2. [4. If] The designated beneficiary of a member deceased prior to retirement [is the spouse of a deceased member, the beneficiary] shall be eligible to select one (1) of the options outlined in KRS 16.601 if applicable KRS 61.635(7), KRS 61.640 or regulation 105 KAR 1:100.

[Section 5. If the designated beneficiary of the deceased member is someone other than his spouse, the beneficiary shall be eligible for one (1) of the options outlined in KRS 16.601 if applicable or regulation 105 KAR 1:100.]

Section 3. [6.] A retiring member shall not be eligible to select KRS 61.635(8).

JOHN D. ROBEY, Chairman

CHARLES L. BRATTON, General Manager

ADOPTED: August 16, 1984

RECEIVED BY LRC: August 31, 1984 at 2:30 p.m.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET**
Department for Natural Resources
Division of Forestry

402 KAR 3:010E. Policies incorporated by reference.

RELATES TO: KRS 13A.130, 149.010, 149.510

PURSUANT TO: 13A.190, 149.010

EFFECTIVE: September 13, 1984

NECESSITY AND FUNCTION: KRS 149.010 requires the division to promulgate regulations to protect and supervise forest property and to advance forest interests of the state. This regulation provides for the incorporation by reference of the policies that are used by the Division of Forestry.

Section 1. The following documents from the Kentucky Division of Forestry are incorporated herein by reference:

(1) Major Timber Sales on state forest property Policy and Procedure Memorandum 85-01.

(2) Minor Timber Sales on state forest property Policy and Procedure Memorandum 85-02.

(3) Policy and Procedure Memorandum 85-03 Free Removal of Forest Products on state forests.

(4) Rural Community Fire Protection Program Policy and Procedure Memorandum 85-04.

Section 2. Statement of Emergency. (1) KRS 13A.130, which became effective April 13, 1984, states that an administrative body shall not modify, expand, or limit a regulation by internal policy, memorandum, or other form of action. This regulation incorporates by reference documents which would otherwise be prohibited by the statute.

(2) An ordinary administrative regulation will not suffice because it is necessary to ensure that the documents incorporated by reference remain in full force and effect during the period between filing and adoption of the ordinary administrative regulation.

(3) This emergency regulation will be replaced by an ordinary administrative regulation.

CHARLOTTE E. BALDWIN, Secretary

DONALD A. HAMM, Director

APPROVED BY AGENCY: September 4, 1984

FILED WITH LRC: September 13, 1984 at 10 a.m.

STATEMENT OF EMERGENCY

KRS Chapter 13A requires that an agency promulgate as an administrative regulation the procedures to be utilized in the conduct of a hearing by or for an administrative body. This administrative regulation has been promulgated to establish the procedures the Transportation Cabinet will follow in holding public comment hearing. It is necessary to adopt this administrative regulation on an emergency basis because there are several public comment hearings scheduled for August and they should be held in compliance with KRS Chapter 13A. This emergency regulation will be replaced by an ordinary administrative regulation as soon as possible.

MARTHA LAYNE COLLINS, Governor
Commonwealth of Kentucky

Floyd G. Poore, Secretary

TRANSPORTATION CABINET

600 KAR 1:030E. Public comment hearings.

RELATES TO: KRS 13A.100

PURSUANT TO: KRS 13A.100, 174.080

EFFECTIVE: August 28, 1984

NECESSITY AND FUNCTION: KRS 13A.100 requires that the procedures to be utilized by an administrative body in the conduct of hearings by or for the administrative body be promulgated as an administrative regulation. This administrative regulation outlines the procedures to be used by the Transportation Cabinet in the conduct of those public hearings which the cabinet is required to hold or which the cabinet determines are necessary to hold for the purpose of soliciting public comment on any matter of interest involving the cabinet, excluding those hearings held pursuant to KRS Chapter 281.

Section 1. When state or federal law requires that a public hearing be held or offered or when the Secretary of

the Transportation Cabinet determines that a public hearing is needed for the purpose of soliciting public comment on any matter of interest involving the cabinet, except those hearings held pursuant to KRS Chapter 281, the notice of the hearing or opportunity for a hearing will be published in accordance with KRS Chapter 424 or KRS Chapter 13A.

(2) If no one requests in writing that a public hearing be held when the opportunity is offered, then the hearing need not be held, provided that all necessary formalities will be observed in any event where state or federal law may so require.

(3) The notice of the public hearing shall specify the date, time and location of the hearing and shall contain a description of the proposed project or the necessity for the public hearing.

Section 2. (1) A Transportation Cabinet representative shall preside over the public hearing.

(2) Any attendee wishing to speak may be required to register at the hearing in order to make an oral statement at that hearing. Any attendee can submit written statements regarding the issue of the public hearing. All interested persons shall be given the opportunity to be heard, either individually or through their representative(s).

(3) Presiding officers may limit the length of each speaker's statements based on factors including, but not limited to: the length of the hearing; the number of attendees wishing to speak, including whether or not their views will be provided by a representative; and the complexity of the issues involved.

(4) The presiding Transportation Cabinet representative shall open the hearing with a statement regarding the purpose and general procedure to be employed in the conduct of the hearing.

FLOYD G. POORE, Secretary

APPROVED BY AGENCY: August 7, 1984

FILED WITH LRC: August 28, 1984 at 12 noon

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS
Governor

E. AUSTIN, JR.
Secretary

CABINET FOR HUMAN RESOURCES Department for Health Services

902 KAR 6:060E. MH/MR manuals for plan and budget instructions, billing instructions, and reimbursement guidelines.

RELATES TO: KRS 210.370 to 210.460

PURSUANT TO: KRS 210.440 to 210.450

EFFECTIVE: August 27, 1984

NECESSITY AND FUNCTION: The Cabinet for Human Resources is empowered and directed by KRS

210.370 to 210.460 to allocate available funds to Mental Health/Mental Retardation Boards in accordance with approved plans and budgets. KRS 210.440 and 210.450 authorize the Secretary for Human Resources to promulgate policies and regulations as to the operations, budgets and expenditures of community programs and to require reporting management and financial programs as necessary to carry out the purposes of KRS 210.370 to 210.460.

Section 1. Annual Plan and Budget Instructions. The Cabinet for Human Resources hereby adopts the "Annual Plan and Budget Instructions, July 1, 1984" by reference. Community Mental Health/Mental Retardation Centers will follow these instructions when preparing and submitting the annual plan and budgets to the cabinet. The manual includes, but is not limited to, the following: rate and allocation sheets, client service definitions and descriptions, fiscal plan, waiver request, letter of assurance, addenda, and regional data packet. A copy of the manual is on file for inspection in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.

Section 2. DHS Program, Policies and Billing Instructions Manual. The Cabinet for Human Resources hereby adopts the "DHS Program, Policies and Billing Instructions Manual, July 1984" as administrative regulation by reference. The manual relates to, but is not limited to the following: billing and reimbursement for mental health, mental retardation, and substance abuse client priorities, program service definitions, reporting requirements, monitoring procedures, and amendment procedures. The instructions contained shall be followed by those Community Mental Health/Mental Retardation Centers contracting with the cabinet. A copy of the manual is on file for inspection in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.

Section 3. Cabinet for Human Resources Title XIX and DHS Funding Community Mental Health/Mental Retardation Reimbursement Manual, July, 1984. The Cabinet for Human Resources hereby adopts this manual as administrative regulation by reference. This manual relates to, but is not limited to the following: scope of services, requirements and limitations of participation, method and principles of reimbursement. The manual shall be adhered to by those Community Mental Health/Mental Retardation Centers contracting with the cabinet. A copy of the manual is on file for inspection in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.

C. HERNANDEZ, M.D, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: July 12, 1984

FILED WITH LRC: August 27, 1984 at 3:30 p.m.

STATEMENT OF EMERGENCY

In order to comply with special conditions governing the administration of a Federal Home Health Grant Number 04-H-00-2818-01, the Barren River District Health Department must implement a special sliding fee scale which must be approved by the Cabinet for Human Resources in accordance with KRS 212.025. This approval must be granted prior to receipt of grant funds which is anticipated to be September 1, 1984. An ordinary administrative regulation cannot suffice since the time frame for process-

ing would extend beyond the anticipated date of receipt of grant funds.

This emergency regulation will be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor
E. AUSTIN, JR., Secretary
Department for Human Resources

CABINET FOR HUMAN RESOURCES Department for Health Services

902 KAR 8:020E. Policies and procedures for local health department operations.

RELATES TO: KRS Chapter 212

PURSUANT TO: KRS 194.050, 211.090, 211.170, 211.180, 213.410

EFFECTIVE: September 13, 1984

NECESSITY AND FUNCTION: KRS 211.170 directs the Cabinet for Human Resources to establish policies governing the activities of local health departments. This regulation adopts various manuals setting policies and standards for health departments.

Section 1. Local Health Policy Manual. The policies set forth in the July 1, 1982, edition of the "Local Health Policy Manual" governing the maintenance and operation of local health departments are hereby adopted by reference.

Section 2. Financial Management Manual. The policies set forth in the *September 1*, [May 15,] 1984, edition of the "Financial Management Manual" governing the operation of the financial management systems used by local health departments are hereby adopted by reference.

Section 3. Patient Services Reporting System Manual. The policies set forth in the May 1, 1984, edition of the "Patient Services Reporting System Manual" governing the collection of patient health/medical services delivered by local health departments are hereby adopted by reference.

Section 4. Medical Records System Policy and Procedure Manual for Local Health Departments in Kentucky. The policies and procedures set forth in the May 1, 1984, edition of the "Medical Records System Policy and Procedure Manual for Local Health Departments in Kentucky" governing the development and maintenance of medical records in local health departments are hereby adopted by reference.

Section 5. Planning Manual for Local Health Departments. The policies set forth in the February, 1984, edition of the "Planning Manual for Local Health Departments" governing the annual program planning process and procedures of local health departments are hereby adopted by reference.

Section 6. Standards Manual for Local Health Departments. The policies set forth in the May 15, 1984, edition of the "Standards Manual for Local Health Departments" governing the programmatic operations of local health departments are hereby adopted by reference.

Section 7. Local Health Department Environmental Data System Operational Procedures for Weekly Environmental Activity Report, Sanitation Programs Information Formulator, and Local Health Annual Data

Report. The policies set forth in the September, 1982, edition of the "Local Health Department Environmental Data System Operational Procedures for Weekly Environmental Activity Report, Sanitation Programs Information Formulator, and Local Health Annual Data Report" are hereby adopted by reference.

Section 8. On-Line Environmental Health Management Information System. The policies set forth in the February 14, 1984, edition of the "On-Line Environmental Health Management Information System" manual are hereby adopted by reference.

Section 9. Consumer Product Safety Commission's Hazardous Substances Labeling Guide. The policies set forth in the May 25, 1979, edition of the "Consumer Product Safety Commission's Hazardous Substances Labeling Guide" are hereby adopted by reference.

Section 10. Consumer Product Safety Commission's In-Depth Investigations Manual. The policies set forth in the January 28, 1983, edition of the "Consumer Product Safety Commission's In-Depth Investigations Manual" are hereby adopted by reference.

Section 11. MCH Maternity Manual. The policies set forth in the May 11, 1984, edition of the "MCH Maternity Manual" governing the operation of the prenatal program conducted by local health departments are hereby adopted by reference.

Section 12. Sudden Infant Death Syndrome Program. The policies set forth in the May 11, 1984, edition of the "Sudden Infant Death Syndrome Program" manual governing the operation of the Sudden Infant Death Syndrome Program conducted by local health departments are hereby adopted by reference.

Section 13. Standards for Genetic Disease Testing, Counseling and Education Services Program. The policies set forth in the May 11, 1984, edition of the "Standards for Genetic Disease Testing, Counseling and Education Services Program" manual governing the operation of genetic disease testing and counseling clinics conducted by local health departments are hereby adopted by reference.

Section 14. Standards for Regional Pediatric Clinics. The policies set forth in the May 11, 1984, edition of the "Standards for Regional Pediatric Clinics" manual governing the operation of regional pediatric programs conducted by local health departments are hereby adopted by reference.

Section 15. Standards for Preventive Health Care in Children. The policies set forth in the May 11, 1984, edition of the "Standards for Preventive Health Care in Children" manual governing the operation of well child programs conducted by local health departments are hereby adopted by reference.

Section 16. Location of Manuals Referenced in This Regulation. A copy of each manual referenced in this regulation is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky, and is open to public inspection.

Section 17. *Summary of Admendment. Add new page 89A dated September 1, 1984 to the Financial Management Manual described in Section 2 of this regulation to authorize a special fee schedule in the Barren River District Health Department Home Health Program in order to*

comply with the requirements of special federal grant number 04-H-00-2818-01.

C. HERNANDEZ, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 29, 1984

FILED WITH LRC: September 13, 1984 at 10 a.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice since no administrative regulation has been filed with respect to these subject matters previously. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS
Governor

E. AUSTIN, JR.
Secretary

CABINET FOR HUMAN RESOURCES Department for Health Services Certificate of Need and Licensure Board (Proposed Amendment)

902 KAR 20:006E. Certificate of need process.

RELATES TO: KRS 216B.010 to 216B.130,
216B.990(1), (2)

PURSUANT TO: KRS 13.082, 216B.040, 216B.075
EFFECTIVE: August 27, 1984

NECESSITY AND FUNCTION: KRS 216B.040 and KRS 216B.075 authorize the Certificate of Need and Licensure Board to promulgate administrative regulations respecting application and review procedures. This regulation sets forth the application and review procedures and requirements for batching, review of substantial changes in projects and cost escalations and progress reports.

Section 1. Definitions. Except as otherwise provided, for purposes of this regulation, the following definitions shall apply:

(1) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provides services similar to the services of the facility under review; health facilities which, prior to receipt by the agency or the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located.

(2) "Batching" means the formal review in the same review cycle and comparative consideration of all filed applications (other than those given non-substantive review pursuant to KRS 216B.095) pertaining to similar types of services, facilities or equipment affecting the same health service area.

(3) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(4) "Capital expenditure authorized" means the amount of the capital expenditure approved by the board to implement a proposal.

(5) "Certificate of need" means an authorization by the board to proceed to acquire, to establish, to offer, to substantially change the bed capacity or to substantially change a health service as covered by KRS Chapter 216B.

(6) "Cabinet" means the Cabinet for Human Resources.

(7) "Executive director" means the executive director of the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(8) "Formal review process" means the ninety (90) day certificate of need review conducted by the board.

(9) "Health service" means clinically related services provided within the Commonwealth to two (2) or more persons, including but not limited to diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services.

(10) "Local health planning agency" means a health planning agency organized for a particular geographical area of the Commonwealth and designated by the governor.

(11) "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095.

(12) "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record.

(13) "Public information channels" means the office of communications and council affairs in the Cabinet for Human Resources.

Section 2. Criteria. In determining whether to issue or deny a certificate of need, the board and the cabinet shall utilize the following criteria:

(1) Consistency with plans. The proposal should be consistent with the state health plan. Consideration should be given to the other applicable appropriately adopted plans developed by local health planning agencies. In case of inconsistency between the state health plan and other plans considered, the state health plan shall prevail. The fact that the state health plan does not address the specific type of proposal being reviewed does not constitute grounds for disapproval of the proposal. To determine conformance with this criterion the applicant and the cabinet shall address and the board shall consider the relationship of the proposal to:

(a) The state health plan;

(b) The applicable appropriately adopted plans developed by local health planning agencies.

(2) Need and accessibility. The proposal should meet an identified need in a defined geographic area and be accessible to all residents of the area. To determine conformance with this criterion the applicant shall address and the board and the cabinet shall consider:

(a) The need that the population served or to be served has for the services proposed to be offered or expanded, and the extent to which all residents of the area, and in particular low income persons, racial and ethnic minorities, women, handicapped persons and other underserved groups are likely to have access to those services.

(b) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the need that the population presently served has for the service; the

extent to which that need will be met adequately by the proposed relocation or by alternative arrangements; and the effect of the reduction, elimination, or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups to obtain needed health care.

(c) The contribution of the proposed service in meeting the health related needs of members of medically underserved groups which have traditionally experienced difficulties in obtaining equal access to health services (for example, low income persons, racial and ethnic minorities, women and handicapped persons), particularly those needs identified in the applicable appropriately adopted plans developed by local health planning agencies and the state health plan as deserving of priority. In this regard, the board and the cabinet shall consider:

1. The extent to which medically underserved populations currently use the applicant's services in comparison to the percentage of the population in the applicant's service area which is medically underserved, and the extent to which medically underserved populations will use the proposed services if approved;

2. The past performance of the applicant in meeting its obligation, if any, under any applicable federal regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal financial assistance (including the existence of any civil rights access complaints against the applicant);

3. The extent to which physicians with admitting privileges at the applicant's facility admit Medicare and Medicaid patients; and

4. The extent to which the applicant offers alternative means, other than through admission by a physician, by which a person will have access to its services (e.g., admission through a clinic or emergency room).

(d) The effect of the means proposed for the delivery of health services on the clinical needs of health professional training programs in the area in which the services are to be provided.

(e) If proposed health services are to be available in a limited number of facilities, the extent to which the health professions schools in the area will have access to the services for training purposes.

(f) Special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas. These entities may include medical or other health professions schools, multidisciplinary clinics and specialty centers.

(g) The special needs and circumstances of biomedical-behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.

(3) Interrelationships and linkages. The proposal should serve to accomplish appropriate and effective linkages with other services, facilities, and elements of the health care system in the region and state accompanied by assurance of effort to achieve comprehensive care, proper utilization of services and efficient functioning of the health care system. To determine conformance with this criterion the applicant shall address and the board and the cabinet shall consider:

- (a) The relationship of the services to be provided to the existing health care system of the area in which the services are proposed to be provided.

- (b) The relationship, including the organizational rela-

tionship, of the health services proposed to be provided to ancillary or support services.

(c) In the case of health services or facilities proposed to be provided, the efficiency and appropriateness of the use of existing services and facilities similar to those proposed.

(4) Costs, economic feasibility, and resource availability. The proposal when measured against the cost of alternatives for meeting needs, is judged to be an effective and economical use of resources, not only in terms of capital investment, but also in terms of ongoing requirements for health manpower and operational financing. To determine conformance with this criterion the applicant shall address and the board and the cabinet shall consider:

- (a) The availability of less costly or more effective alternative methods of providing the services to be offered, expanded, reduced, relocated, or eliminated.

- (b) The immediate and long-term financial feasibility of the proposal, as well as the probable impact of the proposal on the cost of and charges for providing health services by the person proposing the service.

(c) The availability of resources (including health personnel, management personnel, and funds for capital and operating needs) for the provision of the services proposed to be provided and the availability of alternative uses of these resources for the provision of other health services.

(d) In the case of construction projects:

1. The costs and methods of the proposed construction, including the costs and methods of energy provision; and

2. The probable impact of the construction project reviewed on the costs of providing health services by the persons proposing the construction project and on the costs and charges to the public of providing health services by other persons.

(e) The special circumstances of health care facilities with respect to the need for conserving energy.

(f) The factors which affect the effect of competition on the supply of the health services being reviewed.

(g) Improvements or innovations in the financing and delivery of health services which foster competition, and serve to promote quality assurance and cost effectiveness.

(5) Quality of services. The applicant should be prepared to and capable of undertaking and carrying out the responsibilities involved in the proposal in a manner consistent with appropriate standards and requirements assuring the provision of quality health care services. To determine conformance with this criterion the applicant shall address and the board and the cabinet shall consider the quality of care provided by the applicant in the past.

(6) Special needs and circumstances of health maintenance organizations. In the case of a health maintenance organization (HMO) or an ambulatory care facility or health care facility controlled directly or indirectly by an HMO, the proposal should be consistent with the special need and circumstances of HMOs. The applicant shall address and the board and the cabinet shall consider only:

- (a) The needs of enrolled members and reasonably anticipated new members of the health maintenance organizations for the health services proposed to be provided by the organization; and

- (b) The availability of the new health services from non-health maintenance organization providers or other health maintenance organizations in a reasonable and cost effective manner which is consistent with the basic method of operation of the health maintenance organization. In assessing the availability of these health services the board and the cabinet shall consider only whether the services from these providers:

1. Would be available under a contract of at least five (5) years duration;
2. Would be available and conveniently accessible through physicians and other health professionals associated with the health maintenance organization (e.g., whether physicians associated with the health maintenance organization have or will have full staff privileges in a non-health maintenance organization hospital.);
3. Would cost no more than if the services were provided by the health maintenance organization; and
4. Would be available in a manner which is administratively feasible to the health maintenance organization.

Section 3. Required Approvals for HMOs. Notwithstanding the general review criteria established in Section 2, if an HMO or a health facility which is controlled, directly or indirectly, by an HMO applies for a certificate of need, the board shall approve the application if it finds, in accordance with the criterion set out in Section 2(6) that:

- (1) Approval of the application is required to meet the needs of the members of the HMO and the new members which the HMO can reasonably be expected to enroll; and
- (2) The HMO is unable to provide, through services or facilities which can reasonably be expected to be available to the HMO, its health services in a reasonable and cost-effective manner which is consistent with the basic method of operations of the HMO and which makes these services available on a long-term basis through physicians and other health professionals associated with it.

Section 4. Exemptions. (1) A certificate of need shall not be required for any project which meets the applicable requirements of KRS 216B.065, 216B.070, or Section 14 of the 1982 Act. If a person acquires major medical equipment not located in a health facility without a certificate of need and proposes at any time to use that equipment to serve inpatients of a hospital, the proposed new use must be reviewed unless the equipment will be used to provide services to inpatients of a hospital only on a temporary basis in the case of an emergency, a natural disaster, a major accident, or an equipment failure. For the purposes of this section "temporary basis" means on an occasional and irregular basis or until the applicant's proposal for permanent acquisition or regular use by a hospital is reviewed under the formal or non-substantive review process.

Section 5. Formal Review. (1) At least thirty (30) days prior to submitting a certificate of need application for a construction project, a letter of intent shall be filed with the executive director. No letter of intent is required when an applicant proposes to alter an outstanding certificate of need for a construction project. The letter of intent shall be filed on a form provided by the board.

- (2) A letter of intent is valid for a period of one (1) year.
- (3) The executive director shall acknowledge receipt of the letter of intent, send a copy to the respective local health planning agency, if any, and send appropriate forms and instruction sheets to the applicant.
- (4) The original certificate of need application and one (1) copy shall be submitted to the executive director and two (2) copies shall be submitted to the respective local health planning agency, if any.
- (5) Within fifteen (15) days of receipt of the application the executive director shall acknowledge receipt in writing to the applicant and the respective local health planning

systems agency, if any, and shall notify the applicant whether or not the application is complete.

(6) If the application is not complete, the notice to the applicant shall give the applicant the option of submitting the additional information or of notifying the executive director that he elects for the application to be processed as originally submitted.

(7) All applications shall be deemed filed upon the determination of completeness by the executive director, upon receipt of the requested additional information by the executive director, or upon receipt of a letter from the applicant stating that he elects for the application to be processed as originally submitted.

(8) Applications not filed within a year from the date the application was received shall not be retained by the board.

(9) The executive director shall notify the applicant of the date the application was filed and the date public notice has been given of the commencement of the review process. Applications must be filed at least six (6) working days prior to the date of public notice in order to be included in such notice.

(10) The executive director shall give written notice to affected persons of the beginning of a review. The notice shall include the schedule for the review and the period within which a public hearing may be requested by affected persons. The review notice to members of the public and third party payors shall be provided through public information channels. Notice to all other affected persons shall be by mail.

(11) The review period shall commence on the date of public notice. No review shall take longer than ninety (90) days from the commencement of the review unless the applicant agrees to a deferral of action. Applications proposing the same or similar types of services, equipment, or facilities affecting the same health service area shall be batched in the review cycles so they can be given comparative review, if applicable. Batching review cycles for formal reviews shall be as follows:

Type of Proposal	Month of public notice, ninety (90) days prior to meeting date	Month of certificate of need board meeting, third Wednesday of:
(a) Hospital facilities and services including: general medical, surgical, psychiatric, obstetric and pediatric beds; primary care centers, renal disease facilities, and ambulatory care clinics, ambulatory surgical centers, and rural health clinics.	October, February, June	January, May, September
(b) Long term care facilities and services including: skilled nursing, intermediate care, personal care, and nursing homes; and proposals for home health services, and any other type of proposal not listed in paragraph (a) of this subsection.	December, April, August	March, July, November

(12) Any person directly affected by the proposal may request a public hearing within thirty (30) days of the date of public notice.

(13) The local health planning agency shall notify the executive director of its recommendation for approval or disapproval within sixty (60) days from the date of public notice. The recommendation shall set forth the basis for the recommendation and findings with respect to the criteria. In the event that no recommendation is received from the local health planning agency, the board shall proceed without a recommendation.

(14) The executive director of the board shall notify the applicant, the local health planning agency and any party to the proceeding of the board's final action on a certificate of need application.

(a) If the application is approved, the written notification shall include:

1. Verification that criteria for determining need have been met and that the current accessibility of the facility as a whole has been taken into account, if applicable, as specified in the federal certificate of need regulation, except in the following cases:

a. Where the application is approved pursuant to the requirements of Section 2(6). In such case, the written findings shall verify that the conditions for required approvals under Section 3 have been met; or

b. Where the project is a proposed capital expenditure not directly related to the provision of health services or to beds or major medical equipment.

2. Amount of capital expenditure authorized, where applicable.

(b) If the application is disapproved, the written notification shall include:

1. The decision of the board.

2. Notice of appeal rights.

(c) If the board's action on a certificate of need application is inconsistent with a recommendation made by the local health planning agency, the executive director shall submit to the local health planning agency and to the applicant a written detailed statement of the reasons for the inconsistency.

Section 6. Nonsubstantive Review. (1) An applicant may waive the procedures for formal review of an application for a certificate of need and request a nonsubstantive review. In addition to the projects specified in KRS 216B.095(3)(a through f), nonsubstantive review status will be granted to: [an]

(a) Applications to change the location of a proposed health service, so long as the application to change the location is submitted no later than one (1) year after the issuance of the original certificate of need. If a change of location of a proposed health facility is requested more than one (1) year after the certificate of need was issued, a formal review shall be required; and

(b) *Applications pertaining to ambulance services, air ambulance services and non-emergency health transportation services until an emergency medical services component is adopted as part of the state health plan.*

(2) Procedures. Procedures for nonsubstantive review shall be as follows:

(a) The original certificate of need application and one (1) copy, with a request for nonsubstantive review shall be submitted to the executive director and two (2) copies of the application shall be submitted to the respective local health planning agency, if any.

(b) Within fifteen (15) days of the receipt of the application the executive director shall acknowledge receipt of the

application in writing to the applicant and the local health planning agency, if any, and shall notify the applicant whether or not the application is complete.

(c) If the application is not complete, the notice to the applicant shall give the applicant the option of submitting the additional information or of notifying the executive director that he elects for the application to be processed as originally submitted.

(d) All applications shall be deemed filed upon the determination of completeness by the executive director, upon receipt of the requested additional information by the executive director, or upon receipt of a letter from the applicant that he elects for the application to be processed as originally submitted.

(e) Within fifteen (15) days after the application is filed, the executive director functioning as the representative of the cabinet shall determine whether the application meets the criteria for nonsubstantive review and shall notify affected persons of the decision to grant or deny nonsubstantive review status. The notice to members of the public and third party payors shall be provided through public information channels. Notice to all other affected persons shall be by mail.

(f) Within fifteen (15) days of the cabinet's notice to conduct a nonsubstantive review any affected person other than the applicant may request a public hearing before the cabinet on an application granted nonsubstantive review status.

(g) The local health planning agency, if any, shall recommend approval or disapproval of applications granted nonsubstantive review status within thirty (30) days of the date of public notice. In the event that no recommendation is received from the local health planning agency, the cabinet shall proceed without a recommendation.

(h) The cabinet shall approve or disapprove applications for certificates of need within forty-five (45) days from the date of public notice to conduct a nonsubstantive review.

(i) If the applicant's proposed project is denied nonsubstantive review status the application will automatically be placed in the next appropriate batching cycle of the formal review process.

(j) If a certificate of need is denied following a nonsubstantive review, the applicant may request that the application be placed in the next appropriate batching cycle of the formal review process or may pursue a judicial appeal. If a formal review is requested, no letter of intent shall be required, but the filing of the request for nonsubstantive review shall be considered compliance with any requirement for a letter of intent.

Section 7. Conditions Relative to a Certificate of Need. (1) No person shall transfer an approved certificate of need for the establishment of a new health facility or the replacement of an existing facility without first obtaining a certificate of need. All other certificates of need may be transferred to the new owner of the facility or service if a change of ownership occurs prior to implementation of the project for which the certificate of need was issued.

(2) A certificate of need issued for establishment of a new health facility or the replacement of an existing facility and is issued only for the location stated on the certificate.

(3) Cost escalations. (a) A certificate of need shall not be required for an escalation of the capital expenditure authorized provided that the scope of the project as approved is not altered and the amount of the escalation does not exceed:

1. Twenty percent (20%) of the capital expenditure

authorized or \$100,000, whichever is greater, in the case of projects with a capital expenditure of less than \$500,000;

2. Twenty percent (20%) of the capital expenditure authorized, in the case of projects with a capital expenditure of \$500,000 or greater, but less than \$5,000,000;

3. Ten percent (10%) of the amount in excess of \$5,000,000, plus \$1,000,000, in the case of projects with a capital expenditure of \$5,000,000 or greater, but less than \$25,000,000;

4. Five percent (5%) of the amount in excess of \$25,000,000, plus \$3,000,000, in the case of projects with a capital expenditure of \$25,000,000 or greater, but less than \$50,000,000; or

5. Two percent (2%) of the amount in excess of \$50,000,000, plus \$4,250,000 in the case of projects with a capital expenditure of \$50,000,000 or greater.

(b) The certificate of need holder shall submit, to the executive director, a standardized escalation form approved by the Board which includes the amount of the escalation, the factors pertaining to the escalation, and information to assure that the scope of the project as approved originally by the Board has not changed. The executive director shall review the form submitted and within thirty (30) days of receipt shall notify the certificate of need holder whether the proposed escalation meets the requirements of subsection (a) of this section. Capital expenditures for escalations within the limits prescribed in this section shall not be obligated until the certificate of need holder has received this notice. A certificate of need shall be required for escalations in the capital expenditure authorized which exceeds the limits prescribed in this section or entails a change in the scope of the proposal which was originally approved.

(c) The certificate of need holder shall, prior to obligating any escalation of the capital expenditure authorized, submit to the executive director any additional certificate of need application fee required by the increased capital expenditure pursuant to the requirements of 902 KAR 20:135.

Section 8. Progress Reports. (1) As one of the conditions of a certificate of need, the certificate of need holder shall submit a report of progress every six (6) months or more frequently if required by the board until the project is complete.

(2) All certificate of need holders shall be notified in writing that certificates of need will be revoked by the board if satisfactory evidence towards the implementation of a proposal is not made within the time limits set by this regulation. The applicant shall provide the necessary evidence on forms provided by the executive director. The board may revoke the certificate of need for failure to submit progress reports as required.

(3) Procedures for submission of progress reports:

(a) The executive director shall send notice to the certificate of need holder specifying the date each progress report is due. The first six-month report shall be due six (6) months from the date the certificate was issued.

(b) The applicant shall send one (1) copy of the six-month progress report form to the board and two (2) copies to the local health planning agency, if any.

(4) Criteria for review of progress:

(a) The first six-month progress report shall include the following:

1. On all projects for purchase of equipment only, a copy of the purchase order.

2. For all construction projects, a copy of the deed or the option to acquire the site.

(b) In the event the certificate of need holder wishes to change the location of the project from the site specified on the certificate of need, the certificate of need holder shall note the proposed change of location on the first progress report form and shall submit a certificate of need application for nonsubstantive review.

(c) Within one (1) year after a certificate of need is issued, the second six-month report shall include documentation that:

1. All projects for conversion of beds are complete (ready for licensure);

2. All projects for addition of new services, not involving construction, are complete;

3. Schematic plans have been submitted to the Department of Housing, Buildings and Construction and the Cabinet for Human Resources for construction projects. The second six-month report for all construction projects shall also include:

a. Schedule for project completion with projected dates;

b. Evidence of preliminary negotiation with financial agent;

c. Evidence of preliminary negotiation with contractors.

(d) Within eighteen (18) months after a certificate of need has been issued, the third six-month report shall include the following information regarding all construction projects:

1. Copy of deed or lease of land;

2. Evidence that applicant has sufficient capital obligated to complete the project. If the source of capital is to be a financing agreement, the applicant must have evidence that a final enforceable agreement or note has been executed;

3. Documentation that final plans have been submitted to the Department of Housing, Buildings and Construction and the Cabinet for Human Resources;

4. Enforceable contract with construction contractor;

(e) On all projects for purchase of equipment only, evidence that equipment has been installed.

(f) Within two (2) years after a certificate of need has been issued, the fourth six-month report shall verify that all construction projects have the walls and roof up and plumbing roughed in.

C. HERNANDEZ, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: July 31, 1984

FILED WITH LRC: August 27, 1984 at 3:30 p.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice since no administrative regulation has been filed with respect to these subject matters previously. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS
Governor

E. AUSTIN, JR.
Secretary

**CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management and Development**

904 KAR 1:045E. Payments for mental health center services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS [13.082,] 194.050

EFFECTIVE: August 27, 1984

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet for mental health center services.

Section 1. Mental Health Centers. In accordance with 42 CFR 447.325 [447.321], the cabinet shall make payment to providers who are appropriately licensed and have met the conditions for participation (including the signing of such contractual arrangements as the cabinet may require of this class of provider) set by the cabinet, on the following basis:

(1) Payment shall be on a prospective basis based on reasonable allowable prior year costs (*utilizing the latest audited annual cost report or unaudited report if an audited report is not available*) not to exceed usual and customary charges or the upper limits on payments. Allowable costs shall be trended to the beginning of the rate year and indexed for the rate year, so as to more accurately approximate actual costs which will be incurred during the year. (*If an unaudited report is used, cost will not be adjusted based on audit.*)

(2) Payment amounts shall be determined by application of the "Community Mental Health Center General Policies and Guidelines and Principles of Reimbursement," (revised July 1, 1984 [1983]) developed and issued by the cabinet, (incorporated by reference to the extent that such policies, guidelines and principles are applicable to Title XIX services and reimbursement, and filed herein), supplemented by the use of Title XVIII reimbursement principles.

(3) Allowable costs shall not exceed customary charges which are reasonable. Allowable costs shall not include the costs associated with political contributions, membership dues, travel and related costs for trips outside the state (for purposes of [training,] conventions, meetings, assemblies, conferences, [seminars,] or any related activities), and legal fees for unsuccessful lawsuits against the cabinet. *However, costs (excluding transportation costs) for training or educational purposes outside the state are allowable costs.*

(4) The prospective rate shall not exceed 110 [105] percent of the median of the reasonable allowable cost for each reimbursable departmental cost center (i.e., inpatient, outpatient, partial hospitalization and personal care) for all participating facilities.

Section 2. Implementation of Payment System. (1) Payments may be based on units of service such as fifteen (15) minute or hourly increments, or at a daily rate, depending on the type of service.

(2) Overpayments discovered as a result of audits may be settled in the usual manner, i.e., through recoupment or withholding.

(3) The vendor shall complete an annual cost report on forms provided by the cabinet not later than sixty (60) days from the end of the vendor's accounting year and the vendor shall maintain an acceptable accounting system to account for the cost of total services provided, charges for total services rendered, and charges for covered services rendered eligible recipients.

(4) Each community mental health center provider shall make available to the cabinet at the end of each fiscal reporting period, and at such intervals as the cabinet may require, all patient and fiscal records of the provider, subject to reasonable prior notice by the cabinet.

(5) Payments due the community mental health center shall be made at reasonable intervals but not less often than monthly.

[(6) Rates for the first year (July 1, 1983 - June 30, 1984) shall be determined using an unaudited nine (9) month cost report for the period July 1, 1982 - March 31, 1983 trended to the beginning of the rate year.]

Section 3. Nonallowable Costs. The cabinet shall not make reimbursement under the provisions of this regulation for services not covered by 904 KAR 1:044, community mental health center services, nor for that portion of a community mental health center's costs found unreasonable or nonallowable in accordance with the cabinet's "Community Mental Health Center General Policies and Guidelines and Principles of Reimbursement."

JACK F. WADDELL, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: July 13, 1984

FILED WITH LRC: August 27, 1984 at 3:30 p.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS
Governor

E. AUSTIN, JR.
Secretary

**CABINET FOR HUMAN RESOURCES
Department for Social Services
Division for Field Services**

905 KAR 1:180E. DSS policy and procedures manual.

RELATES TO: KRS 194.030(8), 194.060, 199.011 to 199.375, 199.420 to 199.990, 200.080 to 200.120, 205.201 to 205.204, 205.455 to 205.465, Chapters 208 and 209

PURSUANT TO: KRS 194.050, 199.420, 200.080, 209.030

EFFECTIVE: August 27, 1984

NECESSITY AND FUNCTION: P.L. 97-35, "Block Grants for Social Services—Title XX," authorizes grants

to states for social services. KRS 194.050 authorizes the Cabinet for Human Resources to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this manual is to implement a statewide social services program.

Section 1. DSS Policies and Procedures Manual. For the purpose of implementing and enforcing those sections of the Kentucky Revised Statutes relating to social service programs for children and adults that apply to the Department for Social Services, the Secretary of the Cabinet for Human Resources hereby adopts, by reference, the Department for Social Services' Policy and Procedural Manual as revised through August 15, 1984 [June 11, 1984], as the current policies and procedures of that department. The manual contains policies and procedures relating to management procedures, adult services, support services, family and children's services, and youth services. The Department for Social Services' Policy and Procedures Manual may be reviewed in any departmental field office located in each of the 120 counties or at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky, during regular working hours.

Section 2. Summary of Amendment. (1) Strike Manual Index dated 5/84 and substitute in lieu thereof Manual Index dated 8/84 which updates the Manual Index.

(2) Chapter I, Management Procedures, Section B, Intake, Assessment and Registration, strike pages 11, 12, 13 and 14 dated 6/83 and substitute in lieu thereof pages 11, 12, 13 and 14 dated 8/84 which update procedural instructions for the DSS-1A, client registration, to reflect changes in income eligibility.

(3) Chapter II, Adult Services, Section B, Alternate Care, strike pages 11 and 12 dated 5/84 and substitute in lieu thereof pages 11 and 12 dated 8/84 which change from two (2) days to ten (10) days from the date of decertification for a resident of a long-term care facility to request reconsideration and deletes the definition of hardship recommendations.

(4) Chapter IV, Family and Children's Services, Section A, Child Protective Services, strike pages 14 and 15 dated 6/81 and substitute in lieu thereof pages 14 and 15 dated 8/84 which set forth the criteria for handling reports of suspected abuse/neglect in CHR facilities.

(5) Chapter IV, Family and Children's Services, Section B, Commitment and Termination, strike page 13 dated 3/82, page 14 dated 5/84 and page 15 dated 3/82 and substitute in lieu thereof pages 13, 14, 15 and 15a dated 8/84 which clarify age of majority; requires consideration of a guardian or conservator for physically/mentally handicapped youth six (6) months prior to age of majority; establishes priorities for recruiting guardians; prohibits administrators of long-term care facilities in which the youth reside from being guardian or conservator; provides a model letter to be used to notify the court that the department intends to release a child from commitment; and provides a model letter to be used to notify the court that a child has been released from commitment.

(6) Chapter V, Youth Services, add Section D, Residential Tracking System, pages 1 through 9 dated 8/84 and form DSS-203 dated 9/82 which contain procedural instructions for the completion of DSS-203 which is designed to identify all youth participating in residential services programs.

(7) These changes update the DSS Policy and Procedural Manual used by staff of the Department for Social Services to provide services for clients.

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 15, 1984

FILED WITH LRC: August 27, 1984 at 3:30 p.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS

Governor

E. AUSTIN, JR.
Secretary

CABINET FOR HUMAN RESOURCES

Department for Social Services

Division for Aging Services

905 KAR 7:080E. Children's treatment services facility manual.

RELATES TO: KRS Chapters 202A and 208

PURSUANT TO: KRS 194.050

EFFECTIVE: August 27, 1984

NECESSITY AND FUNCTION: P.L. 97-35, Subtitle C, "Block Grants for Social Services Title XX" authorizes grants to states for social services. KRS 194.050 authorizes the Cabinet for Human Resources to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement programs for the care and treatment of mentally ill and/or emotionally disturbed children by the Children's Treatment Service facility operated by the Department for Social Services.

Section 1. Children's Treatment Service Facility Manuals. The Cabinet for Human Resources hereby adopts, by reference, as operating policies and procedures of the Children's Treatment Service, Lakeland Road, Louisville, Kentucky, operated by the Department for Social Services, the following manuals: Policy Manual dated June 16, 1983; Therapeutic Milieu Manual revised through July 23, 1984; [May 11, 1984;] Psychology Procedural Manual dated February 10, 1983; Nursing Manual dated February 10, 1983; Staff Development/Volunteer Procedures Manual revised through July 23, 1984; [May 11, 1984;] Emergency Services Manual revised through May 11, 1984; Safety Rules and Practices revised through May 11, 1984; Pharmacy Manual revised through May 11, 1984; Medical Procedures Manual dated February 10,

1983; *The Living Unit Manual revised through July 23, 1984* [dated February 10, 1983]; and *Social Services Manual* dated February 10, 1983. These manuals set forth the policies and procedures used in the Children's Treatment Services program to provide care and treatment for juveniles residing in this facility. These manuals may be reviewed during regular working hours at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky; and Children's Treatment Service, Lakeland Road, Louisville, Kentucky.

Section 2. Summary of Amendments. (1) In the CTS Therapeutic Milieu Manual strike pages A1-A5 revised January 28, 1983, and substitute in lieu thereof pages A1-A5 revised March 9, 1984, which clarify the use of the phase system, transmit a revised weekly phase point tabulation sheet and revised requirements to qualify for each phase.

(2) In the CTS Living Unit Manual strike pages D32-D36 revised January 28, 1983, and substitute in lieu thereof pages D32-D36 revised through March 9, 1984, which clarify the use of the phase system, transmit a revised weekly phase point tabulation sheet and revised requirements to qualify for each phase.

(3) In the CTS Staff Development Manual add the new label, Staff Development and Volunteer Procedure Manual; add the divider labeled volunteers behind the staff development section and all of the attached material. This addition sets forth the policies and procedures for the recruitment, training and use of volunteers in the Children's Treatment Services facility.

(4) This amendment updates policies and procedures relating to the phase system and the use of volunteers in the Children's Treatment Services facility.

ANNA GRACE DAY, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 15, 1984

FILED WITH LRC: August 27, 1984 at 3:30 p.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS
Governor

E. AUSTIN, JR.
Secretary

CABINET FOR HUMAN RESOURCES Department for Social Services Division for Aging Services

905 KAR 8:020E. Homecare standards.

RELATES TO: KRS 205.201 to 205.204, 205.455 to 205.465

PURSUANT TO: 194.050

EFFECTIVE: August 27, 1984

NECESSITY AND FUNCTION: The Cabinet for Human Resources is directed by statute to promote and to aid in the establishment of local services for the aging, including the provision of in-home services designed to prevent the unnecessary institutionalization of functionally impaired elderly persons. The function of this regulation is to set forth the minimum requirements for participation by contracting and service entities, eligibility criteria for those receiving services, and the manner in which contributions are to be accepted, as related to Homecare services.

Section 1. Definitions. (1) "Activities of daily living" means activities of self-help: being able to feed, to bathe, to dress oneself, to transfer, and to toilet.

(2) "Instrumental activities of daily living" means the components identified in Home Management and taking prescribed medication.

(3) "Cabinet" means Cabinet for Human Resources.

(4) "Core services" means those services, including, but not limited to, client assessment and case management designed to identify a functionally impaired elderly person's needs, develop a plan of care, arrange for services and monitor the provision of services, and to reassess the person's needs on a regular basis.

(5) "Assessment" means the collection of in-depth information about a person's situation and functioning. Assessment will identify all needs and resources so that a comprehensive plan can be made with the client.

(6) "Reassessment" means the formal reevaluation of the client's situation and functioning and of the services delivered to identify changes which may have occurred since the last assessment.

(7) "Case management" means a process for ensuring that clients receive appropriate, comprehensive, and timely services to meet their needs as identified in the assessment process. It is the process of planning, linking the client to all agencies in the formal and informal caregiving systems, monitoring, and advocacy through the employment of casework activities in order to achieve the best possible resolution to individual needs in the most effective way.

(8) "Chore services" means the performance of heavy housecleaning, minor household repairs, yard tasks, and other activities needed to assist in the maintenance of an eligible individual in his own home.

(9) "Escort service" means the personal accompaniment of an eligible person who is physically, mentally, or developmentally disabled and who requires such assistance for reasons of personal security or protection to and/or from a visit to his physician, dentist, or other essential services.

(10) "Functionally impaired elderly person" means a person sixty (60) years of age or older, with physical or mental limitations which restrict individual ability to perform the normal activities of daily living and which impede individual capacity to live independently, thus rendering such person at risk of entering an institution. Functional impairment shall be determined through a functional assessment developed by the cabinet and delivered to each applicant for essential services.

(11) "Homemaker service" means general household activities which include non-medical personal care of individuals in the household and home management services. These services are provided by a trained individual when the person regularly responsible to perform these activities is unable to do so and there are no other individuals available to assist.

(a) "Personal care services" means services directed toward maintaining, strengthening, or safeguarding the functioning of a person is his/her own home. These ser-

vices may include, but are not limited to, assisting the individual in activities of daily living including, when necessary, routine bathing, feeding, hair care, mouth care, and skin care, helping with toileting, assistance in dressing, and helping to identify and report health needs. These services do not require medical supervision but do demand formal case management supervision. Home health agencies should utilize this service rather than home health aide services unless the client is to receive home health aide services under a physician's order.

(b) "Home management services" means those services ordinarily involved with housekeeping necessary to maintain a person in his/her own home. Such services may include, but are not limited to, shopping, budgeting, meal preparation, laundry, and cleaning.

(12) "Homecare services" means these services to eligible individuals provided pursuant to KRS 205.201 to 205.204 and 205.455 to 205.465 directed toward preventing unnecessary institutionalization of functionally impaired older persons and toward maintaining those eligible for services in the least restrictive environment, excluding residential facilities. "Homecare services" shall include homemaker, home health aide, chore, home delivered meals, and core services. Subject to availability of funds and to the terms of any contract, Homecare services may include escort, home repair, and respite care services.

(13) "Home delivered meals" means the provision of a nutritionally sound meal, which meets at least one-third (1/3) of the current daily recommended dietary allowance, to an eligible person and/or spouse homebound by reason of illness, incapacity or disability, including, but not limited to, the securing and delivering of special diets and emergency shelf meals. The meal must be delivered to the home of the client.

(14) "Home health aide service," for the purpose of Homecare funding, is narrowly defined as those medically oriented health care tasks which require a physician's order and can be safely accomplished by a trained individual under the supervision of a registered nurse. These services can only be provided by licensed home health agencies in compliance with 902 KAR 20:081. Homecare funding is not to be used to purchase home health aide services when less costly homemaker services would be safe and appropriate; nor is it to substitute for Title XVIII or XIX reimbursement.

(15) "Home repair" means the performance of tasks for minor home adaptations including additions to or modifications of the home environment to enable the elderly to maintain independent living in their own homes or to ensure safety or facilitate mobility.

(16) "Respite care" means care provided an eligible person by an approved care giver (upon whom the case manager and client agree) for a designated time period because of absence or need for relief of those normally providing the care. Such care may be provided in the individual's home for up to twenty-four (24) hours at any given time.

Section 2. Eligibility. Each applicant for Homecare services provided by the state agency or any entity contracting with the state for the provision of such services must file an application for participation and must demonstrate that he/she meets at least one (1) of the following criteria:

(1) The applicant is a person sixty (60) years of age or older whose functional limitations are such that he requires a sheltered environment with provision of social and health related services specific to his activities of daily living and who:

(a) Has been determined impaired in at least two (2) physical activities of daily living (feeding, transferring to and from bed, dressing, bathing, toileting), or

(b) Has been determined impaired in at least three (3) of the following instrumental activities of daily living (housecleaning, heavy housework, laundry, shopping, taking medicine, and meal preparation).

(2) The applicant is a person sixty (60) years of age or older with a stable medical condition requiring skilled health services along with services related to activities of daily living who would otherwise require an institutional level of care.

(3) The applicant is a person sixty (60) years of age or older currently residing in a skilled nursing facility, an intermediate care facility or a personal care facility who can be maintained at home if appropriate living arrangements and support systems can be established.

Section 3. Voluntary Contributions. Agencies providing Homecare services supported in whole or in part by funds made available pursuant to KRS 205.201 et seq. or KRS 205.455 et seq. shall provide those who receive services and other interested parties with an opportunity to make voluntary cash contributions in support of such services. In no event shall services be withheld from an otherwise eligible individual based upon his failure to voluntarily contribute to support such services.

Section 4. Contract Proposal. (1) In order to receive consideration as a provider of Homecare services, a contracting agency's proposal for service delivery shall contain at least the following:

(a) An assurance of access for the state agency to all records of the contracting agency pertaining to its contract for delivery of Homecare services.

(b) A plan for the delivery of Homecare services in the area to be served by the contracting agency containing:

1. Identification of services currently provided in the district.

2. Identification of uniform procedures for certification of eligibility and case management for individuals referred and found eligible for the program using the approved assessment instrument.

3. Methods for referral for service to other appropriate programs/services.

4. Explanation of volunteer programs to be utilized.

5. Identification of service providers for each specific service.

6. Methods for the periodic monitoring of clients for appropriateness of service.

7. Unit cost and number of proposed clients for services to be provided directly by contract or subcontract.

8. Procedures for the acceptance of voluntary contributions and assurance that such income will be used to maintain or increase the level of service.

9. Identification of linkages to existing services. The legal mandate for adult protective services must be maintained by the Department for Social Services.

(c) A plan for the implementation of case management responsibilities.

(d) An assurance that the proposed contracting agency will provide approved services as defined in Section 1 of this regulation consistent with the policies, procedures and directions of the cabinet and that any subcontract which may be entered obligate the subcontracting party to perform in a similar manner.

(e) A description of long and short range goals in the provision of approved Homecare services.

(f) A description of the manner in which delivery of services to eligible individuals is to be undertaken.

(g) A procedure method to monitor all subcontracts for direct services.

(2) The contracting agency must assure that any assessment of applicants to determine eligibility for Homecare services include, at a minimum, assessment by a social worker or a licensed nurse of the following:

(a) Physical health.

(b) Activities of daily living and instrumental activities of daily living (potential and actual performance).

(c) Physical environment and living arrangements.

(d) Mental function (cognitive and emotional).

(e) Financial resources.

(f) Social support and participation.

(g) Current services utilization.

(3) Assessment of eligibility shall be conducted at least twice yearly.

(4) Any agency contracting with the cabinet for the provision of home health aide services must provide documentation of licensure and substantial compliance with applicable licensure regulation of KRS Chapter 216B.

Section 5. Requirement of Contracts. Service providers contracting to provide Homecare services supported in whole or in part from funds received from the cabinet shall:

(1) Permit staff of the Cabinet for Human Resources, Division of Aging Services to monitor and evaluate services performed pursuant to the contract.

(2) Assure that an initial training program and ongoing in-service program is provided and maintained for staff providing services to Homecare clients.

(3) Maintain fiscal records on the use of funds received pursuant to contract in accordance with generally accepted accounting principles.

(4) Provide approved services in accordance with the terms and conditions of its subcontract and of the policies and procedures of the cabinet regarding Homecare.

(5) Maintain:

(a) Written job descriptions for each job category for all staff and volunteer positions which comprise service delivery;

(b) Written personnel policies; and

(c) A wage scale for each job category.

(6) Assure that all staff providing Homecare services are provided professional supervision in compliance with policies provided by the cabinet.

(7) Case managers shall be either trained social workers with a minimum of two (2) years' professional experience or licensed nurses with a minimum of two (2) years' professional experience.

ANNA GRACE DAY, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 12, 1984

FILED WITH LRC: August 27, 1984 at 3:30 p.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor
Commonwealth of Kentucky

E. AUSTIN, JR., Secretary
Cabinet for Human Resources

CABINET FOR HUMAN RESOURCES Department for Social Services Division of Aging Services

905 KAR 8:070E. Ombudsman Policy and Procedural Manual.

RELATES TO: KRS 205.201, 205.204

PURSUANT TO: KRS 194.050

EFFECTIVE: August 27, 1984

NECESSITY AND FUNCTION: PL 89-93, "Older Americans Act" as amended, requires states to establish and operate, either directly or by contract, a long-term care ombudsman program to protect the rights of aged individuals. KRS 194.050 authorizes the Cabinet for Human Resources to adopt such rules and regulations as are necessary to implement programs mandated by federal law. The function of this regulation is to implement a statewide long-term care ombudsman program as required by federal law.

Section 1. Ombudsman Policy and Procedural Manual. The Cabinet for Human Resources, Department for Social Services, hereby incorporates by reference the Ombudsman Policy and Procedural Manual dated August 15, 1984. This manual sets forth the policies and procedures for the state ombudsman program as well as the designated district ombudsman. The Ombudsman Policy and Procedural Manual may be reviewed during regular working hours at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky.

ANNA GRACE DAY, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 15, 1984

FILED WITH LRC: August 27, 1984 at 3:30 p.m.

Amended Regulation Now in Effect

TRANSPORTATION CABINET Office of Aeronautics As Amended

602 KAR 15:020. State aid for airport development projects.

RELATES TO: KRS 183.120, 183.505, 183.764

PURSUANT TO: KRS 183.024, 183.505

EFFECTIVE DATE: September 11, 1984

NECESSITY AND FUNCTION: This administrative regulation defines the procedure that must be followed in order to obtain financial aid from the Transportation Cabinet, Office of Aeronautics for a *utility airport maintenance project* or an airport development project (as defined in KRS 183.011(14)) for a public airport owned by another state agency, an airport board appointed pursuant to KRS 183.132 or a city and/or county government.

Section 1. (1) To be eligible for financial aid from the airport development fund under this administrative regulation for the airport must meet the following criteria:

- (a) [(1)] The airport must be publicly-owned;
- (b) [(2)] The airport must be available for public use;
- (c) [(3)] The proposed development project must be consistent with the airport type and degree of facility development contained in the state airport system plan;
- (d) [(4)] The proposed development project must either be in accordance with the airport's approved master plan or to prepare or update the airport's master plan; and
- (e) [(5)] The airport must be in compliance with the minimum safety standards set forth in 602 KAR 20:010 to 602 KAR 20:110 or the proposed development project must bring the airport in compliance with those standards.

(2) *To be eligible for financial aid from the utility airport maintenance program under this administrative regulation the airport owner must meet the following criteria:*

- (a) *The airport must be publicly-owned;*
- (b) *The airport must be available for public use;*
- (c) *The airport must be classified as a utility airport;*
- (d) *The proposed maintenance project must be limited to pavement seal coats and overlays, joint repair, obstruction removal or approach clearing and drainage repair;*
- (e) *The airport must be in compliance with the minimum safety standards set forth in 602 KAR 20:010 through 21:070 or the proposed maintenance project must bring the airport in compliance with those standards;*
- (f) *The Transportation Cabinet's share of the maintenance project cost shall not exceed \$10,000;*
- (g) *The airport owner shall pay at least fifty (50) percent of the maintenance project costs.*

Section 2. (1) An airport owner may apply for state aid for airport *maintenance* or development projects. Airport development is defined in KRS 183.011(14) [and is used in the same context in this regulation except that it shall include airport maintenance and such maintenance shall be limited to pavement seal coats and overlays, joint repair, obstruction removal or approach clearing and drainage repair].

(2) To apply for state airport *maintenance* or development funds, the airport owner must submit a "Request for State Funds for Airport Development," form TC 56-15A, to the Transportation Cabinet, Office of Aeronautics, State Office Building, Frankfort, Kentucky

40622, referred to as Office of Aeronautics. The application form must be completed and must contain the project description, the reason for the project, the estimated cost of the project, and the anticipated funding sources. This form is available from the Office of Aeronautics.

Section 3. If a project application is approved for funding by the Office of Aeronautics, a "Tentative Allocation," form TC 56-15B, will be issued to the airport owner. The "Tentative Allocation" will show the amount of state funds reserved for the project, the scope or the approved project and the time frame for which it is being considered. The Office of Aeronautics reserves the right to limit the scope of a project and cost estimates as necessary to conform to available funds.

Section 4. (1) If not already prepared, the airport owner is responsible for the preparation of the engineer's report which explains the design criteria, design plans, and specifications, subsequent to the issuance of the "Tentative Allocation." The design plans and specifications must be approved by the Office of Aeronautics and where appropriate, shall incorporate but not be limited to the following:

(a) "Standard Specifications for Road and Bridge Construction" published in 1983 by the Transportation Cabinet, Department of Highways;

(b) Federal Aviation Regulations Part 139; and

(c) Federal Aviation Administration Advisory Circulars in the 150 series.

Copies are available for viewing in the Office of Aeronautics.

(2) After the design plans and specifications have been approved, in order to establish reimbursable costs, the airport owner shall adhere to the applicable procurement standards outlined in KRS Chapters 45, 45A and 56.

Section 5. After the reimbursable costs have been established for the project, the airport board may submit a "Project Application," form TC 56-15C, to the Office of Aeronautics. This application form must be completed and must contain the revised scope of project, the elements of cost, the source of funds, and an assurance that the airport board will not discriminate against any person or class of persons by reason of race, color, creed or national origin in the operation of the airport. The "Project Application" forms are available from the Office of Aeronautics.

Section 6. (1) After the Office of Aeronautics approves the submitted project or a portion thereof, a "State Grant for Airport Development," form TC 56-15D, will be issued to the airport owner. The grant form will show the scope of the project as finally approved and the amount of state funds obligated to the project. If the airport owner agrees to the terms of the state grant, it may accept the grant form and must return an executed copy to the Office of Aeronautics.

(2) The execution of the grant form is the airport owner's authorization from the Office of Aeronautics to have the contractor proceed. Unless otherwise agreed to, no construction costs incurred prior to the execution of the grant agreement are eligible for state participation. A copy of the notice to proceed to the contractor must be furnished to the Office of Aeronautics.

(3) Land acquisition, administrative, legal and engineering costs incurred prior to the execution of the grant form

may be eligible for state participation at the discretion of the Office of Aeronautics.

Section 7. (1) To receive the state's share of the project costs the airport board must submit to the Office of Aeronautics copies of the bills from the contractors, suppliers, engineers, attorneys, and others involved in the project and attach said copies to a completed "Standard Invoice," form TC 31-519. Copies of this form are available from the Office of Aeronautics.

(2) Final payment from the Office of Aeronautics will not be sent to the airport board until after audit of the project cost performed in accordance with the standards set forth in Attachment P, OMB Circular A 102, dated October 22, 1979. Copies of the standards are available for viewing in the Office of Aeronautics.

Section 8. If the final project costs exceed the total amount agreed to in the "State Grant for Airport Development," the Office of Aeronautics shall incur no obligation to bear any portion of the increased project cost.

Section 9. By acceptance of such airport development grant funds, the airport owner agrees to make the airport on which the funds were expended available for public use for a minimum period of twenty (20) years. Failure to comply with this requirement shall be just cause for the Office of Aeronautics to seek refunding or returning of all funds furnished in the last twenty (20) years for all of the airport development projects associated with the subject airport.

ROBERT COX, Executive Director

FLOYD G. POORE, Secretary

APPROVED BY AGENCY: July 13, 1984

FILED WITH LRC: July 13, 1984 at 9 a.m.

Amended After Hearing

ENERGY CABINET

Department of Energy Production and Utilization

Division of Alternate Energy Development

Amended After Hearing

115 KAR 2:020. Income tax credit for active solar, passive solar, wind, and geothermal energy systems.

RELATES TO: KRS Chapter 141

PURSUANT TO: KRS 141.380(9), 152A.180

NECESSITY AND FUNCTION: The regulation has been developed by the Kentucky Energy Cabinet to assure uniformity in the administration of its duties to certify that energy systems installed are viable, and to maintain commonly accepted energy equipment standards which effectively conform to the statutory definition of qualifying energy property. The regulation sets forth administrative procedures, requirements and standards for determining whether property is used to generate power from solar radiation, wind, or geothermal energy as defined by KRS 141.375 so as to qualify for an income tax credit. The program will complement actions by the Kentucky Revenue Cabinet in allowing eligible taxpayers to claim tax credits on their income tax returns.

Section 1. Definition. (1) "Qualifying energy property" means property used to generate power from solar radiation, wind, or geothermal energy. This term includes the components of active solar systems, passive solar systems, wind energy systems and geothermal energy systems, as defined in subsections (2) through (5) of this section.

(2) "Active solar system" means a system of equipment capable of collecting and converting solar radiation into thermal, mechanical or electrical energy, and of transferring these forms of energy to storage or the point of use. It includes water heating, space heating or cooling, and the generation of electrical or mechanical energy. Transfer or storage components are included, except for those which would be required regardless of the energy source being used.

(3) "Passive solar system" means a direct thermal system which utilizes the structure of a building and its operable components to collect, store and distribute heating or cooling during the appropriate times of the year, by utilizing the climate resources available at the site. It includes those portions or components of a building that are

expressly designed and required for the collection, storage and distribution of solar energy. Structural components of a building which also are used as part of the energy system, such as supporting walls used also for heat storage, are included only if and to the extent that their cost exceeds that of conventional construction. Multi-purpose components shall include but not be limited to windows or attached greenhouses, if designed as part of a solar system and if south facing. Multi-purpose components shall be included for half of their cost.

(4) "Wind energy system" means a system of equipment capable of intercepting and converting wind energy into mechanical or electrical energy and of transferring these forms of energy to the point of use or storage. It does not include those storage or transfer components which would be required regardless of the energy source being used. Wind equipment used to produce power for transportation is excluded.

(5) "Geothermal energy system" means a system of equipment necessary to transmit or use natural heat from the earth to provide hot water, produce electricity or generate heating or cooling for use within a building. This includes hydrothermal energy systems. It does not include those storage or transfer components which would be required regardless of the energy source being used.

(6) "Solar cells" (including photovoltaics) ["Photovoltaic"] means a system of equipment which converts solar energy directly into electrical energy, and is capable of transferring this form of energy to the point of use or storage, or to the point of connection to the conventional electrical system.

(7) "Glazing" means transparent material, such as glass or ultraviolet resistant thermoplastics, which has a minimum transmissivity of .71 [which transmits not less than seventy-five (75) percent of the solar energy which is transmitted by standard float glass].

(8) "Heat sink" means a body or substance, such as earth or water, used for the disposal of heat in the course of a hydrodynamic or thermodynamic process.

(9) "Solarium" means a room or space, which is part of a building, having south-facing glazing [having glazing exposed to the sun,] such as an atrium, sunporch, attached greenhouse, or sunspace, and includes the means to utilize and/or distribute heat it has generated [greenhouse, or sunroom].

[(10) "Air plenum" means a space created to facilitate the flow of air for heating or cooling purposes. Examples are double envelope construction and thermal chimneys.]

Section 2. Active Solar Systems. Qualifying systems must be one (1) of the following types—heating and cooling systems or electrical generation systems.

(1) Heating and cooling systems.

(a) An active heating and cooling solar system consists of components which *convert solar radiation to thermal energy, and transport the thermal energy* [may be a separate part of the building. A system for heating and/or cooling must transport the thermal energy derived from the sun] to storage, and/or to the point of use or connection to the conventional system. While the design, operation, and performance of active heating and cooling systems may vary, to qualify the system must include the following functions:

1. The means for collecting sunlight to *heat* [create hot] liquids or [hot] air. The glazing surface must face within thirty (30) degrees due south. [The plane of the glazing surface must have an angle of tilt as measured in degrees from the horizontal plane equal to or greater than the degree latitude of the installation site.]

2. The means for absorbing the sun's heat from the collecting surface to *heat* [create hot] liquids or [hot] air.

3. The means for circulating or transferring the *energy from the heated liquid or air* [hot liquids or hot air].

(b) Any components which are designed as part of the heating and cooling system and are reasonably necessary for its efficient and useful operation will qualify. Such components may include but are not limited to the following:

1. Storage mediums, such as tanks to store hot liquids or rock beds to store *heat from the air* [hot air];

2. *Differential* thermostats to activate fans and pumps that circulate the hot liquid or hot air; and

3. Heat exchangers which utilize hot liquids or hot air to transfer heat to liquid or air used for heating and/or cooling a building.

(2) Electrical generation systems.

(a) An electrical generation system must include *conversion of solar radiation to electrical energy and the collection and transmission of the electrical energy to storage, or to the point of use or connection to the electrical system* [a photovoltaic energy conversion system and collection and electrical transmission devices]. The *solar cell* [photovoltaic] system to qualify must include the following components:

1. A *solar* [The photovoltaic] cell array and any devices required to mount the cell array. The *solar cells* [photovoltaic cell array] must face within thirty (30) degrees due south. [The plane of the photovoltaic cell array must have an angle of tilt as measured in degrees from the horizontal plane which is within fifteen (15) degrees of the degree latitude of the installation site.]

2. Electrical transmission components extending from the *solar* [photovoltaic] cells to storage, and/or to the point of use, or connection to the conventional system.

(b) Any components which are designed as part of the *solar cell* [photovoltaic] system and are reasonably necessary for its efficient and useful operation will qualify. Such components may include but are not limited to the following:

1. An inverter which converts electricity from direct current (DC) to alternating (AC);

2. Safety equipment required by a utility company, if the [photovoltaic] system is feeding electricity into a utility system; and

3. Any device used to store the electrical energy, if storage is needed to delay the use of the energy produced.

Section 3. Passive Solar Systems. (1) To qualify as a passive solar system, the system must consist of south facing glazing, storage mass *where necessary to prevent overheating*, and a method of isolating the storage mass from the outdoor climatic conditions. A passive solar system must utilize the materials which form the enclosure to collect, store, and distribute the solar energy, usually by non-mechanical means. Qualifying systems must be one (1) of the following types—direct *gain* passive solar systems, indirect *gain* passive solar systems, or attached solariums.

(a) To qualify as a direct *gain* passive solar system, the following conditions must be met:

1. The glazing must face within thirty (30) degrees of due south (except when the glazing is slanted, then the angle deviation from due south may be such that the equivalent solar radiation between nine (9) a.m. and three (3) p.m. (solar time) is at least equal to vertical glazing facing within thirty (30) degrees of due south);

2. Sufficient storage mass must exist *which represents the minimum heat storage capacity required by the ratio of the passive solar glazing area to the floor area of the direct gain space. The minimum heat storage capacity must be equivalent to .06 cubic feet of concrete or masonry, or .17 gallons of water per square foot of floor area of the direct gain space. Where the ratio of the passive solar glazing area to the floor area of the direct gain space does not exceed sixteen (16) percent, additional storage mass beyond normal home furnishings and wall finishes is not required* [to receive and store fifty (50) percent of the solar energy transmitted by the glazed surface]; and

3. Movable insulation of at least R-3 [5] value must be available to shield the glazing, or the solar collection surface must be double glazed.

(b) To qualify as an indirect *gain* passive solar system, the following conditions must be met:

1. The glazing must face within thirty (30) degrees of due south (except when the glazing is slanted, then the angle deviation from due south may be such that the equivalent solar radiation between nine (9) a.m. and three (3) p.m. (solar time) is at least equal to vertical glazing facing within thirty (30) degrees of due south); and

2. *Indirect gain passive solar systems include but are not limited to thermosiphon collectors (also known as dayheaters) and Trombe walls* [Sufficient storage mass must exist to receive and store fifty (50) percent of the solar energy transmitted through the glazed surface].

(c) To qualify as a [an attached] solarium, the following conditions must be met:

1. The glazing must face within thirty (30) degrees of due south (except when the glazing is slanted, then the angle deviation from due south may be such that the equivalent solar radiation between nine (9) a.m. and three (3) p.m. (solar time) is at least equal to vertical glazing facing within thirty (30) degrees of due south);

2. A mechanism must exist to transport the excess heat to the conditioned environment; [and]

3. *Sufficient storage mass must exist which represents the minimum heat storage capacity required by the ratio of the passive solar glazing area to the solarium floor area. The minimum heat storage capacity must be equivalent to .33 cubic feet of concrete or masonry, or 1.04 gallons of water per each square foot of glazing; and*

4. [3.] The solarium must be thermally isolated from the conditioned space by an equivalent R-3 [5] insulation, or R-3 [5] movable insulation must be available to cover the glazed area, or the glazed area must be double glazed.

(2) [Eligible components for passive solar systems.] Any components which are designed as part of the passive solar systems as described in this section and are reasonably necessary for its efficient and useful operation will qualify. Such components may include but are not limited to the following:

(a) Glazing materials and other materials to seal the glazing, and the supporting structure *for the glazing*.

(b) Storage mass may include:

1. Floors if built of masonry, slate, or other *appropriate* [thermal] materials, if insulated around the perimeter or underneath the floor.

2. Walls if built of masonry, water, or other thermal storage materials.

(c) Movable insulation if it has an equivalent of R-3 [5] or greater insulating value and is sealed around the edges. Included are ropes, tracks, pulleys, motors, and other devices for the movement and/or storage of insulation, provided that the sole purpose of these items is to move and store the insulation.

(d) Devices for controlling heat loss or heat gain, or for distributing heat. Such devices may include awnings, overhangs, *shade screens*, [and] attached lattice work, and fans[, and air plenum].

Section 4. Wind Energy Systems. (1) A qualifying wind energy system must be a non-mobile system and must extract energy from the movement of air caused by the uneven heating of the earth from the sun. The system of equipment must be capable of intercepting and converting wind energy into thermal mechanical or electrical energy, and of transferring these forms of energy to storage, or to the point of use, or connection to the conventional system. Wind energy systems must include the following components:

(a) A device which collects the energy from the wind, such as blades, rotors, and hubs;

(b) A mechanism which transmits the collected energy, such as gearbox, shaft, and bearings; and

(c) A mechanism which transforms the energy to mechanical, electrical or thermal energy, such as generators and pony breaks.

(2) Any components which are designed as part of the wind energy system and are reasonably necessary for its efficient operation will qualify. Such components may include but are not limited to the following:

(a) A tower or other supporting structure, if the purpose of the structure is solely to support and house the equipment in subsection (1) of this section. If an existing structure is used to mount the wind machine, then only the modifications necessary for the installation of the wind machine are eligible;

(b) A device used to store the energy, if storage is needed to delay the use of the energy produced; and

(c) Safety equipment required by a utility company, if the wind system is feeding electricity into a utility system.

Section 5. Geothermal Energy Systems. (1) A geothermal energy system must use a thermal exchange with the earth to transmit or use natural heat from the earth to provide hot water, produce electricity, or generate heating and/or cooling for use within a building. The system of equipment must be capable of converting energy from the earth and transferring the energy to storage, or to the point of use, or connection to the conventional system. Qualifying systems include the following types:

(a) [(1)] Ground water to air heat pumps, in which a heat pump uses ground or surface water as the source when space heating, and the heat sink when space cooling;

(b) [(2)] Earth coil systems, in which pipes are buried in the ground, either vertically or horizontally, and a fluid is pumped through the pipes.

(c) [(3)] A closed system, where a heat pump uses a stored water unit as the source and a heat sink; in such case, the storage unit must be in contact with the earth and below the frost line (twenty-four (24) to thirty (30) inches), and must be of sufficient size that it will not freeze solid during the heating season.

(2) Any components which are designed as part of the geothermal system and are reasonably necessary for its efficient operation will qualify. Such components may include but are not limited to: heat pump equipment (excluding duct work), the water subsystem, well drilling, trenching, well capacity tests, and wiring.

Section 6. Comparable Systems. The minimum requirements set forth in the regulation may be waived by the Kentucky Energy Cabinet if the applicant can clearly show that the overall performance and efficiency of his/her system of relevant components is equal to or greater than a system or relevant components which meet the minimum requirement stated in this regulation.

Section 7. Application Procedures. (1) Any taxpayer seeking certification of a qualifying energy property for purposes on an income tax credit under KRS 141.380 shall complete and file an application with the Kentucky Energy Cabinet. An application form will be provided by the Kentucky Energy Cabinet and the application shall include:

(a) Documentary proof of expenditures for the purchase and installation of the qualified energy property. Expenditures must be itemized for each component of the system. Labor expenditures must also be itemized.

(b) Documentary proof that the system is completely installed as of *the date of the application* [December 31 of the applicable tax year prior to application for benefits].

(c) Identification of supplier(s) and laborer(s).

(2) Upon receipt of a complete and properly documented application, the Kentucky Energy Cabinet shall evaluate it to determine whether the system and components are qualifying energy property.

(3) If the Kentucky Energy Cabinet determines that the energy property qualifies for the tax credit, the Kentucky Energy Cabinet shall issue a qualified energy property certificate to the applicant for the energy property components which qualify for a tax credit.

(4) If the Kentucky Energy Cabinet determines that no certificate will be issued, the Kentucky Energy Cabinet shall notify the applicant in writing of this decision.

(5) The Kentucky Energy Cabinet may take up to sixty (60) days to review and act on an application for certification of an energy property.

(6) An applicant may request reconsideration of the decision of the Kentucky Energy Cabinet by submitting a written request together with any additional documentation or support which can be offered.

(7) The Kentucky Energy Cabinet may make information available to the Kentucky Revenue Cabinet for its determination of the amount of credit to which the applicant is entitled.

GEORGE E. EVANS, JR., Secretary

APPROVED BY AGENCY: September 6, 1984

FILED WITH LRC: September 7, 1984 at 8:30 a.m.

REGULATORY IMPACT ANALYSIS

The following items are in direct response to the informational requirements set forth in HB 334 (13A.240, Regulatory Impact Analysis-Items (1)(a)-(f).

(a) The income tax credit program will be available to ALL individuals, businesses and organizations installing an eligible energy property and filing an income tax return. It is anticipated that approximately 400 tax returns will be filed annually under the program.

(b) The projected average tax credit (or savings to be taxpayer) will be \$525 per claimant. The total tax credit expected to be claimed during the first year is \$210,000.

Only incidental costs for postage, and time in completing application forms and in keeping records of expenditures will be encountered by those making claims under the program. The taxpayers will continue to receive monetary benefits for many years. In addition to the initial tax savings, there will be lower costs for conventional energy resulting from the use of alternate energy.

(c) It is estimated that the implementation cost of the program by the Kentucky Energy Cabinet, after implementation of the administrative regulation, will be approximately \$16,000 (1/2 man year plus printing and postage). These costs are expected to continue for the second and third years. Increased efficiencies in handling and evaluating applications will offset greater numbers of claimants in the second and third years.

(d) Increased construction activities and the resulting greater value of local property will create more local tax revenues. The effect on state tax revenues is projected to be a slight net gain. The direct projected tax revenue losses are offset by projected increased economic activity.

(e) There were no other feasible alternatives to the Kentucky Energy Cabinet in meeting the requirements of the Act except the adoption of administration regulations. In-house policies and memorandas would not satisfy the requirement that administrative regulations are necessary when an administrative body must implement, interpret and prescribe policy or describe the organization procedures or practice requirements of any administrative body in meeting its statutory requirements in matters affecting the rights of the public. This Act requires that commonly accepted energy equipment standards be maintained and that energy property be certified and be effective in conforming to the statutory definitions.

(f) There are no statutes, rules, regulations or governmental policies which the proposed regulation is in conflict with, overlaps or duplicates. The Kentucky Revenue Cabinet may adopt regulations or policies that will complement this regulation which will impact claimants filing tax returns.

Tiering:

Was tiering applied? No. All applicants will be dealt with in the same manner so tiering is not applicable.

Fiscal Note

The impact of this regulation upon local governments will be negligible. Increased property value resulting from installations of a qualifying energy property will enhance the local tax base. However, there will be a loss in taxes levied against conventional energy use to the extent that the qualifying energy property reduces the use of these conventional energy forms. While the installation of an energy property may be significant in reducing conventional energy costs to the individual user, it is very negligible when considering its impact on the total tax revenues.

FINANCE AND ADMINISTRATION CABINET Kentucky State Board of Medical Licensure Amended After Hearing

201 KAR 9:021. Medical and osteopathic schools approved by the board; denial or withdrawal of approval; application of KRS 311.271; postgraduate training requirements; approved programs.

RELATES TO: KRS 311.530 to 311.620, 311.990, 311.271

PURSUANT TO: KRS 311.565

NECESSITY AND FUNCTION: KRS 311.565 empowers the State Board of Medical Licensure to exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy and authorizes the board to establish requirements and standards relating thereto. The purpose of this regulation is to establish standards for approval of medical and osteopathic schools, colleges and universities in regard to the issuance and renewal of licenses and permits to practice medicine or osteopathy in the Commonwealth. The further purpose of this regulation is to assure that physicians obtain sufficient postgraduate training to enable them to practice with competency within the Commonwealth.

Section 1. Approval Necessary for Licensure. An applicant shall not obtain or retain any license or permit issued by the board unless and until the applicant provides sufficient proof that he or she is a graduate of a medical or osteopathic school, college or university which has been approved by the board. An applicant for limited licensure-institutional practice pursuant to KRS 311.571(4) may, however, be granted such licensure without the board's prior approval of the medical or osteopathic school, college or university upon sufficient proof that the particular school does exist and the applicant is a graduate thereof. No other license or permit issued pursuant to any other statutory or regulatory provision shall be issued unless and until the applicant's medical or osteopathic school, college or university has been fully approved. The school approval requirement will not be excused because information concerning the school is not readily ascertainable.

Section 2. Medical and Osteopathic Schools Located Within the United States or Canada. Unless approval is denied or withdrawn pursuant to Section 4 of this regulation, all medical and osteopathic schools, colleges and universities located in the United States or Canada are approved in regard to the issuance and renewal of licenses and permits upon written proof that the particular institution is:

(1) Located in the United States, its territories and protectorates and approved/accredited by the Liaison Committee on Medical Education (LCME) or the American Osteopathic Association; or

(2) Located in Canada and approved/accredited by the Canadian Medical Association.

Section 3. Medical and Osteopathic Schools Located Outside the United States and Canada. Unless approval is denied or withdrawn pursuant to Section 4 of this regulation, all medical and osteopathic schools located outside the United States and Canada are approved in regard to the issuance and renewal of licenses and permits upon written proof that the particular institution is:

(1) Officially recognized in good standing by the country in which the school, college or university is located;

(2) Registered as a medical school, college or university in either the World Health Organization directory or the World Directory of Medical Schools; and

(3) Possesses a basic course of clinical and classroom medical instruction of not less than thirty-two (32) months in length that is conducted under the direct authority of the medical school, college or university.

Approval of an institution under this section should be considered in conjunction with the other requirements for licensure of graduates of medical schools, colleges and universities located outside the United States and Canada. Approval under this section should not be interpreted as a statement by the board that the particular institution is equivalent to institutions approved pursuant to Section 2 of this regulation.

Section 4. Denial or Withdrawal of Approval. The board, in its discretion, may deny or withdraw approval of any medical or osteopathic school if the particular school, college or university fails to meet the requirements for approval as established in the preceding sections or if, in the board's opinion, the approval of the particular school, college or university would not be in the best interests of the Commonwealth. If approval is denied or withdrawn the board shall issue an order delineating the grounds upon which denial or withdrawal of approval is based.

Section 5. Application of KRS 311.271. (1) An applicant shall not obtain any license or permit issued by the board unless and until the applicant provides written proof that he or she has been credited with not less than sixty (60) transferable units of study by a college or university accredited by the Southern Association of Colleges and Schools or an accrediting agency recognized by the Southern Association of Colleges and Schools; provided, however, that the executive director may determine the equivalency of premedical or preosteopathic units of study credited by a college or university located outside the United States or Canada on an individual basis.

(2) It is the declared policy of the Commonwealth that a physician, who becomes initially enrolled in a school of medicine or osteopathy after June 13, 1968, should not be authorized to practice medicine or osteopathy in this state unless and until the physician can provide satisfactory evidence that he or she has fulfilled the premedical or preosteopathic undergraduate requirement delineated in subsection (1) of this section. Therefore, the board will not issue any license or permit to an applicant except upon the fulfillment of this requirement.

Section 6. Hearings. The board, in its discretion, may direct that formal or informal hearings be held in connection with the approval, denial of approval or withdrawal of approval of any medical or osteopathic school, college or university, or in the determination of qualification pursuant to KRS 311.271.

Section 7. Amount of Postgraduate Training Required. (1) All applicants for regular licensure who are graduates of medical and osteopathic schools located within the United States or Canada shall provide written proof of having completed one (1) full year of postgraduate training approved by the board.

(2) All applicants for regular licensure who are graduates of medical and osteopathic schools located outside the United States and Canada shall provide written proof of having completed three (3) full years of postgraduate training approved by the board.

(3) All applicants for limited licensure-institutional

practice shall provide written proof of having completed one (1) full year of postgraduate training approved by the board.

Section 8. Postgraduate Training Programs Approved by the Board. (1) All postgraduate training programs in hospitals and institutions located in the United States and approved by the Accreditation Council for Graduate Medical Education (ACGME) are approved by the board in regard to the fulfillment of the postgraduate training requirement for licensure.

(2) All postgraduate training programs in hospitals and institutions located in Canada and approved by the *National Joint Committee on Accreditation of Preregistration Physician Training Programs in the United States or Canada* [Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada] are approved by the board in regard to the fulfillment of the postgraduate training requirement for licensure.

(3) All postgraduate training programs in hospitals and institutions located in the United States or Canada and approved by the American Osteopathic Association are approved by the board in regard to the fulfillment of the postgraduate training requirement for licensure.

Section 9. Fellowship Training in the United States or Canada. The board will consider on an individual basis written proof of satisfactory completion of fellowship training recognized by the board to be of satisfactory quality as substitution for the second or third year of required postgraduate training approved by the board pursuant to this regulation.

Section 10. Repeal of Regulations. The following regulations of the board are hereby repealed: 201 KAR 9:020, 201 KAR 9:030, 201 KAR 9:040, 201 KAR 9:050, 201 KAR 9:060, 201 KAR 9:070, 201 KAR 9:080 and 201 KAR 9:085.

C. WILLIAM SCHMIDT
Executive Director

APPROVED BY AGENCY: July 13, 1984

FILED WITH LRC: September 6, 1984 at 11 a.m.

FINANCE AND ADMINISTRATION CABINET Kentucky State Board of Medical Licensure Amended After Hearing

201 KAR 9:041. Fee schedule.

RELATES TO: KRS 311.530 to 311.620, 311.990

PURSUANT TO: KRS 311.565

NECESSITY AND FUNCTION: KRS 311.565 empowers the State Board of Medical Licensure to exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy and authorizes the board to establish requirements and standards relating thereto. The purpose of this regulation is to establish a schedule of fees for services rendered by the board.

Section 1. Fee Schedule.

(1) Fee for sitting for examination administered by board	\$200 [185]
(2) Fee for initial issuance of regular license	\$150
(3) Fee for initial issuance of limited license	\$65
(4) Fee for annual registration or renewal of any license	\$65

- (5) Penalty for late annual registration or renewal ..\$25
- (6) Fee for reregistration of inactive license\$25
- (7) Endorsement of licensee to licensing agency of another jurisdiction\$20
- (8) Certification of licensee's examination grades to licensing agency of another jurisdiction\$10
- (9) Fee for temporary permit (credited to fee for regular license if subsequently issued).....\$50
- (10) Fee for emergency permit\$15
- (11) Fee for duplicate license certificate\$10
- (12) Fee for copy of "Kentucky Medical Directory" (fee waived for licensees, hospitals, schools and other licensure boards)\$5
- (13) Fee for one (1) year subscription to Newsletter (fee waived for licensees)\$5

C. WILLIAM SCHMIDT
Executive Director

APPROVED BY AGENCY: July 13, 1984
FILED WITH LRC: September 6, 1984 at 11 a.m.

FINANCE AND ADMINISTRATION CABINET
Kentucky State Board of Medical Licensure
Amended After Hearing

201 KAR 9:051. License renewal and registration; reregistration of inactive license.

RELATES TO: KRS 311.530 to 311.620, 311.990

PURSUANT TO: KRS 311.565

NECESSITY AND FUNCTION: KRS 311.565 empowers the State Board of Medical Licensure to exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy and authorizes the board to establish requirements and standards relating thereto. The purpose of this regulation is to establish procedures and rules regarding the annual renewal and registration of licenses and the reregistration of inactive licenses.

Section 1. Annual Renewal and [Re]Registration. (1) On or about January 1 of each year, the executive director shall mail written notification to all physicians holding a regular license to practice medicine and osteopathy in the Commonwealth that annual registration of their license must be executed on or before March 1. The notification shall indicate the annual registration fee and shall warn the licensee that failure to timely register will cause his or her license to become inactive.

(2) On or about January 1 of each year the executive director shall mail written notification to all physicians holding a valid and active limited license-institutional practice or limited license-general practice which had been issued to the holder on or before September 1, 1972, that annual renewal of their limited license must be executed on or before March 1. The notification shall indicate the annual renewal fee and shall warn the limited licensee that failure to timely renew will cause his or her limited license to be cancelled and unrenissuable.

(3) On or about thirty (30) days prior to the expiration of a limited license-institutional practice issued pursuant to KRS 311.571(4) or as a training permit under prior law, the executive director shall mail written notification to the physician that his or her limited license will expire on an indicated date, being one (1) year from the date of issuance. The notification shall inform the holder that he or she must obtain a limited license-institutional practice pursuant to KRS 311.571(3) on or before the expiration date and shall

warn the holder that if the physician fails or is unable to obtain such a limited license or a regular license the physician will no longer have licensure authority to practice in the Commonwealth.

(4) On or about thirty (30) days prior to the expiration of a limited license-institutional practice issued pursuant to KRS 311.571(3) the executive director shall mail written notification to the limited licensee that his or her limited license will expire unless renewed on or before the expiration date, being one (1) year from the date of issuance. The notification shall indicate the annual renewal fee and shall warn the limited licensee that failure to timely renew will cause his or her limited license to be cancelled.

Section 2. Questionnaire Concerning Matters of Licensure and Discipline. In conjunction with any notification required to be sent by Section 1 of this regulation, the executive director shall also send the licensee a questionnaire concerning matters of licensure and discipline to allow the board to better evaluate the continued fitness of physicians practicing in the Commonwealth. The questionnaire shall be signed by the licensee and verified by a notary. A license will not be renewed, registered or reregistered unless and until the questionnaire has been completed to the executive director's satisfaction.

Section 3. Late Registration or Renewal. Any physician holding either a regular license, a limited license-institutional practice pursuant to KRS 322.571(3), a limited license-institutional practice issued prior to September 1, 1972, or a limited license-general practice who fails to register or renew for the coming year on or before the date designated on the notification shall be sent a second notification that shall indicate the annual registration or renewal fee, the penalty fee for late registration or renewal and the time allowed for late registration or renewal which shall not be longer than thirty (30) days beyond the date designated on the first notification for registration or renewal. In the event the licensee fails to register or renew his or her license by the date designated on the second notification, the license will be considered inactive or cancelled accordingly and continued practice by the physician will be considered the unauthorized practice of medicine or osteopathy.

Section 4. Reregistration of Inactive Regular License. Upon failure of a licensee to register his regular license for the year before the expiration of the time allowed for late registration, the license shall become inactive and continued practice by the physician will be considered the unauthorized practice of medicine or osteopathy. At any subsequent time the holder of an inactive license may seek reregistration of his or her license by paying the annual registration fee and the fee for reregistration, and satisfactorily completing the forms necessary for obtaining sufficient information concerning the reregistrant's present fitness to practice.

Section 5. All notifications required to be sent by this regulation shall be mailed to the licensee's last known address of which the board has record. Failure of the licensee to receive notice if mailed to the last known address will not excuse the licensee from compliance with the statutes or this regulation.

C. WILLIAM SCHMIDT
Executive Director

APPROVED BY AGENCY: July 13, 1984
FILED WITH LRC: September 6, 1984 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing

on this regulation will be held August 24, 1984, at 1:00 p.m. at the offices of the Kentucky Board of Medical Licensure, 3532 Ephraim McDowell Drive, Louisville, Kentucky 40205. Those interested in attending this hearing shall contact in writing: C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 3532 Ephraim McDowell Drive, Louisville, Kentucky 40205.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: C. William Schmidt

201 KAR 9:051 establishes requirements and standards regarding the renewal and registration of active licenses and the reregistration of inactive licenses. The regulation establishes January 1 as the normal date for annual renewal of regular licenses and March 1 as the deadline for registration. The regulation also establishes a period for renewal of limited licenses. The regulation further establishes a guideline for determining when a license becomes inactive and, therefore, ineffective. After that date, the license will have to be reregistered according to procedures set forth in the regulation. The regulation also establishes that no application for renewal, registration or reregistration will be considered unless and until a comprehensive questionnaire concerning the physician's practice has been completed. The purpose of this questionnaire is to allow the board to better evaluate the competency and conduct of physicians licensed by the board.

This regulation will not have any substantial impact on the board's revenues although it should save the board some revenue by allowing for a more definite and streamlined process for renewal of registration and reregistration. It will have no effect on state and local revenues. This regulation will also allow the board to process the forms involved in renewal, registration and reregistration in a more timely and efficient fashion.

No alternative measures were considered as none are available. This regulation does not conflict with, overlap or duplicate any statute or other regulation.

Tiering:

Was tiering used? No. Medical and osteopathic licensure and discipline is implemented uniformly in regard to all physicians who have equal rights and responsibilities.

FINANCE AND ADMINISTRATION CABINET Kentucky State Board of Medical Licensure Amended After Hearing

201 KAR 9:061. Limited licenses.

RELATES TO: KRS 311.530 to 311.620, 311.990

PURSUANT TO: KRS 311.565

NECESSITY AND FUNCTION: KRS 311.565 empowers the State Board of Medical Licensure to exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy and authorizes the board to establish requirements and standards relating thereto. The purpose of this regulation is to establish standards and guidelines regarding the issuance and renewal of limited licenses.

Section 1. Applicability. An applicant for limited license-institutional practice pursuant to KRS 311.571(3) or 311.571(4) shall not be issued a license or permit unless and until the applicant provides written proof that he or she is officially enrolled in a postgraduate training program in the Commonwealth approved by the board or is

employed as a professor or researcher in medicine by either the University of Kentucky College of Medicine or the University of Louisville School of Medicine.

Section 2. Scope of Practice. A limited license-institutional practice issued to a physician in an approved postgraduate training program shall enable the holder to practice as a physician within the parameters of the training program. *A limited license-institutional practice issued to a physician who is employed by one of the Commonwealth's medical schools shall enable the holder to practice as a physician to the extent necessary to perform his responsibilities of employment.* The executive director may suspend any such limited license-institutional practice upon evidence that the holder has practiced outside the scope of his or her licensure.

Section 3. Applicability and Scope of Limited Licenses Held Prior to September 1, 1972. (1) All persons who as of the effective date of this regulation hold a valid and current limited license-institutional practice issued to them prior to September 1, 1972, may continue to hold their licenses if annually renewed. The holder may only practice within the confines of the institution for which his or her limited license is designated.

(2) All persons who as of the effective date of this regulation hold a valid and current limited license-general practice issued to them prior to September 1, 1972, may continue to hold their licenses if annually renewed. The holder may only practice within the confines of the geographical area for which his or her limited license is designated.

(3) Any limited license held prior to September 1, 1972, which is not timely renewed each year by the holder shall lapse and become void and the limited license will not be reissued under any circumstance. Practice outside the scope of the limited license shall result in the temporary suspension of the license and possible discipline. The board will not issue any new limited licenses like those described in this section and a limited license-institutional practice will not be converted to a limited license-general practice.

Section 4. Extent of Practice Allowed Under Limited License. A physician holding a limited license possesses all the powers of a physician allowed by the laws of the Commonwealth, to practice within the limited scope of his or her licensure; provided, however, that the holder of a limited license-general practice shall not perform surgery unless expressly authorized by the board.

Section 5. Form of License. All limited licensees shall be issued a certificate which shall state on its face whether it is a limited license-institutional practice (KRS 311.571(3) or 311.571(4)), a limited license-institutional practice (KRS 311.565(15)) or a limited license-general practice (KRS 311.555(15)). The certificate shall also indicate the institution or geographical area to which the holder's practice is limited and any limitations on the holder's scope of practice.

Section 6. Temporary Permit. *Upon satisfactory completion of all forms and the submission of all necessary information in connection with an application for limited licensure-institutional practice, the executive director may issue a temporary permit to the applicant if the executive director believes that the application satisfies all the requirements for limited licensure-institutional practice and is otherwise fit to practice. The temporary permit shall remain in effect until the holder is issued a limited license-institutional practice by the board or until cancelled, but in*

no event shall the temporary permit be effective longer than sixty (60) days from the date of issuance. Denial of an application for limited licensure-institutional practice by the board shall cause the cancellation of a temporary permit if held by the applicant. The temporary permit may not be renewed or reissued.

C. WILLIAM SCHMIDT
Executive Director

APPROVED BY AGENCY: July 13, 1984

FILED WITH LRC: September 6, 1984 at 11 a.m.

FINANCE AND ADMINISTRATION CABINET
Kentucky State Board of Medical Licensure
Amended After Hearing

201 KAR 9:081. Disciplinary proceedings.

RELATES TO: KRS 311.530 to 311.620, 311.990
PURSUANT TO: KRS 311.565

NECESSITY AND FUNCTION: KRS 311.565 empowers the State Board of Medical Licensure to exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy and authorizes the board to establish requirements and standards relating thereto. The purpose of this regulation is to set forth the procedures to be followed in handling formal and informal disciplinary proceedings before the board or before any committee to the board, such that the proceedings will be conducted with due regard for the rights and privileges of all affected parties.

Section 1. Scope. This regulation shall govern practice and procedure in regard to all disciplinary matters before the Kentucky Board of Medical License pursuant to KRS 311.530 et seq.

Section 2. Definitions. (1) "Executive director" means the executive director of the board or any assistant executive directors appointed by the board.

(2) "General counsel" means the general counsel of the board or any assistant general counsel appointed by the board.

(3) "Committee" means the physician review advisory committee unless otherwise indicated from the context.

(4) "Board" means the Kentucky Board of Medical Licensure.

(5) "Grievance" means any allegation in whatever form alleging misconduct by a physician.

(6) "Charge" means a specific allegation contained in any document issued by the board or its committees alleging a violation of a specified provision of the Kentucky Medical and Osteopathic Practice Act.

(7) "Complaint" means a formal administrative pleading authorized by the board that sets forth charges against a physician and commences a formal disciplinary proceeding.

(8) "Show cause order" means an order directing the named physician to show cause why the board should or should not take a specified action based on specified information which the order alleges to be true.

(9) "Hearing officer" means the person designated and given authority by the board to preside over all proceedings pursuant to the issuance of any complaint or show cause order.

(10) "Informal proceedings" means proceedings instituted at any stage of the disciplinary process with the in-

tent of reaching an informal dispensation of any matter without further recourse to formal disciplinary procedures.

(11) "Act" means the Kentucky Medical and Osteopathic Practice Act.

Section 3. Reception of Grievances; Investigations. (1) Grievances may be submitted by any individual, organization or entity. The board shall retain a written form upon which grievances may be made and any party submitting a grievance may be required to complete the form and may also be required to give their affidavit acknowledging the truth and veracity to the best of their knowledge and belief of the information contained in the grievance.

(2) All grievances shall be investigated as necessary and presented to the committee for review unless the circumstances of a particular grievance make it impossible to timely present the grievance to the committee. The committee shall have the authority to direct any investigation and shall possess any and all powers possessed by the board in regard to investigations. The committee shall further be empowered to request the attendance of any person at any meeting of the committee in regard to the investigation of any grievance or consideration of any disciplinary matter. The failure, without good cause, of any physician licensed to practice medicine or osteopathy by the board to appear before the committee when requested shall be considered unprofessional conduct.

(3) The committee shall be empowered to request compliance with the reporting requirements of KRS 311.605-311.606 and may pursue investigations, on its own initiative, in regard to acts of non-compliance or any other perceived violation of the Act.

Section 4. Reports and Recommendations; Petitions. (1) When in the opinion of the committee a grievance does not warrant the issuance of a complaint against a physician, the committee shall submit a written report to the board briefly denoting the committee's findings and recommending an appropriate course of action.

(2) When in the opinion of the committee a grievance warrants the issuance of a complaint against a physician, the committee shall cause a complaint to be prepared together with a petition, signed by the chairman or vice-chairman on behalf of the committee, stating the committee's belief that the charges are based upon reliable information and requesting the board to authorize the issuance of the complaint.

(3) When in the opinion of the executive director a grievance warrants the issuance of a complaint against a physician and circumstances do not allow the timely presentation of the grievance to the committee, the executive director shall cause a complaint to be prepared together with a petition, signed by the executive director, stating the executive director's belief that the charges are based upon reliable information and requesting the board to authorize the issuance of the complaint.

(4) When in the opinion of the executive director or the committee a disciplinary matter warrants the board's issuance of a show cause order against a physician, the executive director or the committee shall cause a proposed order to be prepared together with a petition briefly delineating a basis for the issuance of the show cause order and requesting the board to issue the order.

(5) The board, on its own initiative, may issue a show cause order against a physician in regard to any application for licensure, obtaining, retaining or reobtaining licensure.

(6) Nothing in this subsection shall be construed to limit the board's power to deny a license to any applicant

without a prior hearing upon a finding that the applicant has violated any provision of the Act.

Section 5. Complaints. (1) The complaint shall be signed by the party petitioning the board for its issuance and shall be dated. The complaint shall be styled in regard to the matter of the license to practice in the Commonwealth of Kentucky held by the named physician and shall be designated with an appropriate case number.

(2) The complaint shall set forth the board's jurisdiction in regard to the subject matter of the complaint and shall further set forth, in numerical paragraphs, sufficient information to apprise the named physician of the general nature of the charges.

Section 6. Show Cause Orders. (1) The show cause order shall be signed by an officer of the board and shall be dated. The show cause order shall be styled in regard to the license, application for license or application for renewal, registration or reregistration of license to practice in the Commonwealth of Kentucky held by or submitted by the named physician, appropriately, and shall be designated with an appropriate order number.

(2) The show cause order shall set forth the board's jurisdiction in regard to the subject matter of the order and shall further set forth, in numerical paragraphs, the information which the board accepts to be true and the statutory basis for the board's finding that grounds exist for the discipline of the named physician's license or for the denial of the named physician's application for obtaining, retaining or reobtaining licensure appropriately.

(3) The show cause order shall direct the named physician to show cause why disciplinary action should not be taken in view of the matters expressed in the order. The order may direct the named physician to appear at a designated time and place, provided that the named physician receives notice at least thirty (30) days prior to the hearing.

Section 7. Authorization of Complaint by Board; Orders to Respond. (1) Upon being presented with a petition requesting the issuance of a complaint, the board shall, within sixty (60) days, grant or deny the petition. If the petition is granted, the board shall issue an order authorizing the complaint's issuance, directing the charged physician to respond within thirty (30) days after receiving notice of the complaint, and informing the physician that failure to respond may be taken by the board as an admission of the charges.

(2) If the board denies a petition, the board may remand the matter to the committee, with or without directions, or may order that action be taken different from that requested in the petition.

(3) The board may, in its discretion, grant a petition only in part and may modify a requested complaint prior to authorizing its issuance.

Section 8. Petitions Requesting Orders of Temporary Restriction; Orders of Temporary Restriction. (1) Petitions requesting the board to issue and order temporarily suspending, limiting or restricting the license held by the named physician shall set forth the grounds which the petitioning party believes support a finding by the board that sufficient reasonable cause exists to believe that the continued unaffected practice by the named physician would constitute a danger to the health, welfare and safety of the physician's patients or of the general public. All petitions requesting temporary disciplinary action by the board shall be verified by the petitioning party and shall set forth the

type of temporary disciplinary action which the petitioning party believes to be warranted.

(2) Upon being presented with a petition requesting the board to issue an order temporarily suspending, limiting or restricting the license held by the named physician, the board shall, within sixty (60) days, grant the petition and issue an order, with or without modification of the requested temporary discipline, or, shall deny the petition. If the board grants the petition, the ensuing order shall briefly set forth the grounds which the board believes support a finding that sufficient reasonable cause exists for the order's issuance.

(3) Except in extraordinary circumstances when the demands of time and circumstances do not allow, at least ten (10) days prior to the presentation of the petition the petitioning party shall notify the named physician[, in writing,] of the nature of the charges [contained in the complaint and the petitioning party's intention to request an order temporarily suspending, limiting or restricting the physician's license]. The *charged* [named] physician may respond to the charges informally, either orally or in writing, and the board shall consider the response in determining whether to grant the petition. *This requirement will be considered satisfied if the physician is given the opportunity to respond to the charges before the committee and a synopsis of his response shall be provided to the board for its consideration.*

(4) The grant or denial of a petition requesting an order temporarily suspending, limiting or restricting the named physician's license shall not affect the board's discretion regarding the issuance of any complaint or other document and shall further not be construed as a finding of any ultimate fact in regard to charges contained in any complaint.

Section 9. Notice and Service of Process. (1) Any notice required by the Act or this regulation shall be in writing, dated and signed by the appropriate person.

(2) Service of notice and other process shall be made by hand-delivery or delivery by certified mail to the physician's last known address of which the board has record or by such service on the named physician's attorney of record. Failure of the named physician to receive actual notice after execution of the prescribed service shall not prejudice the board from pursuing proceedings that result in the denial or discipline of the named physician's license.

Section 10. Hearings Pursuant to Order Temporarily Suspending, Limiting or Restricting a License. (1) A physician whose license has been temporarily suspended, limited or restricted shall, upon written request, be accorded hearing on the board's order within fifteen (15) days after making the request unless otherwise agreed. The hearing shall be limited to the sole purpose of determining whether the board's order was based on sufficient reasonable cause, provided, however, that the charged physician shall have the right to present evidence that indicates that the information upon which the board based its order was untrue or that the danger that existed at the time the order was issued has since been dissipated or alleviated.

(2) Any findings of fact or conclusions of law rendered by the hearing officer pursuant to a hearing on an order of temporary discipline shall not be binding upon the board in its ultimate determination regarding the charges contained in the complaint, nor shall the hearing officer thereafter be prejudiced from presiding at the hearing on the complaint.

(3) At the hearing on the order of temporary discipline, the hearing officer may entertain any motion timely submitted in regard to any matter concerning the disciplinary

case, provided, however, that any orders issued pursuant to such motions shall not be considered appealable.

(4) Either party to the hearing on the order of temporary discipline may petition the board to review the order of the hearing officer either sustaining, modifying or withdrawing the board's order by filing a written petition delineating those aspects of the hearing officer's determination with which the party takes exception and requesting the board to review the hearing officer's determination. The board may grant or deny review in its discretion.

(5) Nothing in this section shall be construed to limit either party's right to appeal an order sustaining, modifying or withdrawing an order of temporary discipline to the circuit court of the county in which the board's offices are located as provided by statute. However, the filing of an appeal shall not prejudice the board's jurisdiction to continue the proceeding in regard to the charges contained in the complaint.

Section 11. Proceedings Pursuant to the Issuance of a Complaint or Show Cause Order. (1) Appointment of hearing officer. The board shall appoint a hearing officer who is empowered to preside at any and all proceedings, to rule upon all motions and objections, to prepare and submit proposed findings of fact, conclusions of law and disciplinary measures to the board and to perform any other act necessary to the proper conduct of the proceedings.

(2) Appointment of the prosecuting attorney. The board's general counsel shall act as the prosecuting attorney in regard to any disciplinary proceeding, provided, however, that the board may appoint special prosecuting attorneys in its discretion. The prosecuting attorney shall not be present during any deliberations of the board pursuant to the issuance of a complaint, show cause order or order of temporary discipline unless otherwise agreed to by the charged physician.

(3) Appointment of advisory counsel. The board may appoint a representative of the Attorney General's office, the board's general counsel, or other attorney to act as advisory counsel to the board in regard to any deliberations of the board pursuant to the issuance of a complaint, show cause order or order of temporary discipline, provided, however, that an attorney may not act as advisory counsel if the attorney was substantively involved in the investigation or prosecution of the matter before the board.

(4) Form of pleadings; service. Pleadings may be in any neat form provided that all pleadings must be dated and signed by the offering party. The original of all pleadings must be filed with the executive director for entry into the official record and copies must be served on the hearing officer, the opposing party and any other person who might be designated by the hearing officer.

(5) Prehearing conferences. Upon motion of either party or upon his or her own initiative, the hearing officer may order that a prehearing conference be held. The prehearing conference may be the forum for consideration of any matter properly before the hearing officer including all motions, discovery, stipulations, identification of issues, dates of future proceedings and objections.

(6) Discovery. Either party may at any time after the issuance of a complaint or show cause order move the hearing officer to order that discovery from the other party be allowed by any of the following methods:

(a) Oral deposition, provided, however, that either party shall have the right to move the hearing officer to order that the deposition be entered into the record in lieu of further testimony by the witness;

(b) Request for a more definite statement;

(c) Request for production of names of witnesses, documents and other demonstrative evidence; and

(d) Request for a brief synopsis of the testimony expected to be given by any expert witness.

The hearing officer may limit or allow discovery of any matter relevant to the issues and may issue protective orders as necessary.

(7) Hearings. Hearings shall proceed in accordance with the rules of examination applicable in courts of law in the Commonwealth. The rules of evidence applicable in courts of law in the Commonwealth shall apply, provided, however, that hearsay evidence shall be admissible unless irrelevant or grossly prejudicial. The order and burden of proof shall be established by the hearing officer, provided, however, that the burden of proof shall be upon the charged physician in any hearing on the charges contained in a show cause order. The hearing officer shall rule upon any motions or objections and may require the submission of briefs in regard to any issue. The hearing officer may allow opening and closing statements by either party, or other offers of prosecution or defense that will allow the orderly and expeditious conduct of the proceedings.

(8) Record. The hearing officer shall be charged with the responsibility of compiling a written record of the proceedings which shall contain all evidence introduced at the hearing and all pleas, motions, objections, responses, rulings and other legal documents which the hearing officer deems properly part of the record.

(9) Presentation of record, hearing officer's proposed findings, conclusions and recommendations. The hearing officer shall present the record, his or her proposed findings of fact, conclusions of law and recommendations to the executive director for deliberation by the board. The hearing officer shall serve a copy of his findings, conclusions and recommendations on all parties at least twenty (20) days prior to the date set for the board's final determination. All parties shall have the right to file exceptions to the hearing officer's findings, conclusions and recommendations ten (10) days prior to the date set for the board's final determination.

(10) Briefs. Any party to the proceeding may move the hearing officer to allow briefs to be filed with the board prior to the board's final determination. The hearing officer may grant the motion and establish a briefing schedule but only if the hearing officer believes that such a procedure would substantially aid the board in its deliberations. Briefs shall not exceed five (5) pages in length unless otherwise allowed by the hearing officer. The board may, on its own initiative, order that briefs be submitted.

(11) Oral argument. Any party to the proceeding may move the board to allow oral argument before the board sitting en banc prior to the board's final determination. The board may order oral arguments on its own initiative.

(12) Board's findings of fact, conclusions of law and final order, remand. At the conclusion of its deliberations the board may adopt the hearing officer's proposed findings, conclusions and recommendations of action in whole or in part or may reject them totally and prepare its own. The board shall enter a final order dated and signed by an officer of the board stating its ultimate determination. Prior to, during or subsequent to any deliberations the board may remand the matter to the hearing officer for further proceedings as directed.

C. WILLIAM SCHMIDT, Executive Director
APPROVED BY AGENCY: July 13, 1984
FILED WITH LRC: September 6, 1984 at 11 a.m.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET**
Department for Environmental Protection
Division of Waste Management
Amended After Hearing

401 KAR 31:040. Lists of hazardous waste.

RELATES TO: KRS 224.830 through 224.877, 224.994
PURSUANT TO: KRS 13A.210, 224.033 [13.082,
13.083, 224.017,] 224.864(3)

NECESSITY AND FUNCTION: KRS 224.864(3) requires the Natural Resources and Environmental Protection Cabinet to identify the characteristics of and to list hazardous wastes. This chapter identifies and lists hazardous waste. This regulation establishes the lists of hazardous wastes.

Section 1. General Applicability and Delisting Procedures. (1) A waste is a hazardous waste if it is listed in any section of this regulation unless it has been excluded from that list under 401 KAR 31:060 and 31:070.

(2) The cabinet will indicate the basis for listing the classes or types of wastes listed in this regulation by employing one (1) or more of the following Hazard Codes:

Hazardous Code	Class or Type of Waste
(I)	Ignitable waste
(C)	Corrosive waste
(R)	Reactive waste
(E)	EP toxic waste
(H)	Acute hazardous waste
(T)	Toxic waste

401 KAR 31:160 identifies the constituent which caused the cabinet to list the waste as an EP toxic waste (E) or toxic waste (T) in Sections 2 and 3 of this regulation.

(3) Each hazardous waste listed in this regulation is assigned an EPA Hazardous Waste Number, which precedes the name of the waste. This number must be used in complying with the notification requirements of KRS 224.864 and certain recordkeeping and reporting requirements under 401 KAR Chapters 32 through 40.

(4) The following hazardous wastes listed in Section 2 or 3 of this regulation are subject to the exclusion limits for acutely hazardous wastes established in Section 5 of 401 KAR 31:010.

Section 2. Hazardous Wastes from Non-Specific Sources. Hazardous wastes from non-specific sources are:

Industry and EPA Hazardous Waste No.	Hazardous Waste	Hazard Code
Generic:		
F001	The following spent halogenated solvents used in degreasing: tetrachloro-ethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; and sludges from the recovery of these solvents in degreasing operations.	(I, T)
F002	The following spent halogenated solvents: tetrachloroethylene, methylene chloride, trichloroethylene, 1,2,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, and trichlorofluoro-	(T)

methane; and the still bottoms from the recovery of these solvents.

F003	The following spent non-halogenated solvents: xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; and the still bottoms from the recovery of these solvents.	(I)
F004	The following spent non-halogenated solvents: cresols and cresylic acid, and nitrobenzene; and the still bottoms from the recovery of these solvents.	(T)
F005	The following spent non-halogenated solvents: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, and pyridine; and the still bottoms from the recovery of these solvents.	(I, T)
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.	(T)
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum.	(T)
F007	Spent cyanide plating bath solutions from electroplating operations (except for precious metals electroplating spent cyanide plating bath solutions).	(R, T)
F008	Plating bath sludges from the bottom of plating baths from electroplating operations where cyanides are used in the process (except for precious metals electroplating plating bath sludges).	(R, T)
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process (except for precious metals electroplating spent stripping and cleaning bath solutions).	(R, T)
F010	Quenching bath sludge from oil baths from metal heat treating operations where cyanides are used in the process (except for precious metals heat-treating quenching bath sludges).	(R, T)
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations where cyanides are used in the process (except for precious metals heat treating spent cyanide solutions from salt bath pot cleaning).	(R, T)
F012	Quenching wastewater treatment sludges from metal heat treating operations where cyanides are used in the process (except for precious metals heat treating quenching wastewater treatment sludges).	(T)
F024	Wastes, including but not limited to distillation residues, heavy ends, tars, and reactor clean-out wastes from the	(T)

production of chlorinated aliphatic hydrocarbons, having carbon content from one (1) to five (5), utilizing free radical catalyzed processes. (This listing does not include light ends, spent filters and filter aids, spent dessicants, wastewater, wastewater treatment sludges, spent catalysts, and wastes listed in Section 2 of this regulation.)

Section 3. Hazardous Wastes from Specific Sources.
Hazardous wastes from specific sources are:

Industry and EPA Hazardous Waste No.	Hazardous Waste	Hazard Code			
Wood Preservation:					
K001	Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol.	(T)		K020	Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production. (T)
				K021	Aqueous spent antimony catalyst waste from fluoromethanes production. (T)
				K022	Distillation bottom tars from the production of phenol/acetone from cumene. (T)
				K023	Distillation light ends from the production of phthalic anhydride from naphthalene. (T)
				K024	Distillation bottoms from the production of phthalic anhydride from naphthalene. (T)
				K093	Distillation light ends from the production of phthalic anhydride from ortho-xylene. (T)
				K094	Distillation bottoms from the production of phthalic anhydride from ortho-xylene. (T)
				K025	Distillation bottoms from the production of nitrobenzene by the nitration of benzene. (T)
Inorganic Pigments:					
K002	Wastewater treatment sludge from the production of chrome yellow and orange pigments.	(T)		K026	Stripping still tails from the production of methylethyl pyridines. (T)
K003	Wastewater treatment sludge from the production of molybdate orange pigments.	(T)		K027	Centrifuge and distillation residues from toluene diisocyanate production. (R,T)
K004	Wastewater treatment sludge from the production of zinc yellow pigments.	(T)		K028	Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane. (T)
K005	Wastewater treatment sludge from the production of chrome green pigments.	(T)		K029	Waste from the product steam stripper in the production of 1,1,1-trichloroethane. (T)
K006	Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated).	(T)		K095	Distillation bottoms from the production of 1,1,1-trichloroethane. (T)
K007	Wastewater treatment sludge from the production of iron blue pigments.	(T)		K096	Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane. (T)
K008	Oven residue from the production of chrome oxide green pigments.	(T)		K030	Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene. (T)
Organic Chemicals:					
K009	Distillation bottoms from the production of acetaldehyde from ethylene.	(T)		K083	Distillation bottoms from aniline production. (T)
K010	Distillation side cuts from the production of acetaldehyde from ethylene.	(T)		K103	Process residues from aniline extraction from the production of aniline. (T)
K011	Bottom stream from the wastewater stripper in the production of acrylonitrile.	(R,T)		K104	Combined wastewater streams generated from nitrobenzene/aniline production. (T)
K013	Bottom stream from the acetonitrile column in the production of acrylonitrile.	(R,T)		K085	Distillation or fractionation column bottoms from the production of chlorobenzenes. (T)
K014	Bottoms from the acetonitrile purification column in the production of acrylonitrile.	(T)		K105	Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes. (T)
K015	Still bottoms from the distillation of benzyl chloride.	(T)		Inorganic Chemicals:	
K016	Heavy ends or distillation residues from the production of carbon tetrachloride.	(T)		K071	Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used. (T)
K017	Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin.	(T)		K073	Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production. (T)
K018	Heavy ends from the fractionation column in ethyl chloride production.	(T)		K106	Wastewater treatment sludge from the mercury cell process in chlorine production. (T)
K019	Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production.	(T)			

Pesticides:

- K031 By-product salts generated in the production of MSMA and cacodylic acid. (T)
- K032 Wastewater treatment sludge from the production of chlordane. (T)
- K033 Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane. (T)
- K034 Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane. (T)
- K097 Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane. (T)
- K035 Wastewater treatment sludges generated in the production of creosote. (T)
- K036 Still bottoms from toluene reclamation distillation in the production of disulfoton. (T)
- K037 Wastewater treatment sludges from the production of disulfoton. (T)
- K038 Wastewater from the washing and stripping of phorate production. (T)
- K039 Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate. (T)
- K040 Wastewater treatment sludge from the production of phorate. (T)
- K041 Wastewater treatment sludge from the production of toxaphene. (T)
- K098 Untreated process wastewater from the production of toxaphene. (T)
- K042 Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T. (T)
- K043 2,6-Dichlorophenol waste from the production of 2,4-D. (T)
- K099 Untreated wastewater from the production of 2,4-D. (T)

Explosives:

- K044 Wastewater treatment sludges from the manufacturing and processing of explosives. (R)
- K045 Spent carbon from the treatment of wastewater containing explosives. (R)
- K046 Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds. (T)
- K047 Pink/red water from TNT operations. (T)

Petroleum Refining:

- K048 Dissolved air flotation (DAF) float from the petroleum refining industry. (T)
- K049 Slop oil emulsion solids from the petroleum refining industry. (T)
- K050 Heat exchanger bundle cleaning sludge from the petroleum refining industry. (T)
- K051 API separator sludge from the petroleum refining industry. (T)
- K052 Tank bottoms (lead) from the petroleum refining industry. (T)

Iron and Steel:

- K061 Emission control dust/sludge from the primary production of steel in electric furnaces. (T)

- K062 Spent pickle liquor from steel finishing operations. (C,T)

Secondary Lead:

- K069 Emission control dust/sludge from secondary lead smelting. (T)
- K100 Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting. (T)

Veterinary Pharmaceuticals:

- K084 Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. (T)
- K101 Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. (T)
- K102 Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. (T)

Ink Formulation

- K086 Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead. (T)

Coking:

- K060 Ammonia still lime sludge from coking operations. (T)
- K087 Decanter tank tar sludge from coking operations. (T)

Section 4. Discarded Commercial Chemical Products, Off-Specification Species, Container Residues, and Residues Thereof. The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded:

(1) Any commercial chemical product, or manufacturing chemical intermediate having the generic name listed in subsection (5) or (6) of this section.

(2) Any off-specification commercial chemical product or manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in subsection (5) or (6) of this section.

(3) Any container or inner liner removed from a container that has been used to hold any commercial chemical product or manufacturing chemical intermediate having the generic names listed in subsection (5) of this section, or any container or inner liner removed from a container that has been used to hold any off-specification chemical product and manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in subsection (5) of this section unless:

(a) The container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate; or

(b) The container or inner liner has been cleansed by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

(c) In the case of a container, the inner liner that prevented contact of the commercial chemical product or

manufacturing chemical intermediate with the container has been removed.

(4) Any residue or contaminated soil, water or other debris resulting from the cleanup of a spill into or on any land or water of any commercial chemical product or manufacturing chemical intermediate having the generic name listed in subsection (5) or (6) of

this section, or any residue or contaminated soil, water or other debris resulting from the cleanup of a spill into or on any land or water of any off-specification chemical intermediate which, if it met specification, would have the generic name listed in subsection (5) or (6) of this section.

(5) The commercial chemical products, manufacturing chemical intermediate or off-specification commercial chemical products or manufacturing chemical intermediates referred to in subsections (1) through (4) of this section, are identified as acute hazardous wastes (H) and are subject to the small quantity exclusion defined in Section 5 of 401 KAR 31:010.

(NOTE: The primary hazardous properties of these materials have been indicated by the letters T (Toxicity), and R (Reactivity). Absence of a letter indicates that the compound is only listed for acute toxicity.) These wastes and their corresponding EPA Hazardous Waste Numbers are:

Hazardous Waste No.	Substance		
P023	Acetaldehyde, chloro-	P103	Carbamimidoseleonic acid
P002	Acetamide, N-(Aminothioxomethyl)-	P022	Carbon bisulfide
P057	Acetamide, 2-fluoro-	P022	Carbon disulfide
P058	Acetic acid, fluoro-, sodium salt	P095	Carbonyl chloride
P066	Acetimidic acid, N-((methylcarbamoyl)oxy)thio-, methyl ester	P033	Chlorine cyanide
P001	3-(alpha-acetonylbenzyl)-4-hydroxycoumarin and salts, when present at concentrations greater than 0.3%	P023	Chloroacetaldehyde
P002	1-Acetyl-2-thiourea	P024	p-Chloroaniline
P003	Acrolein	P026	1-(o-Chlorophenyl)thiourea
P070	Aldicarb	P027	3-Chloropropionitrile
P004	Aldrin	P029	Copper cyanides
P005	Allyl alcohol	P030	Cyanides (soluble cyanide salts), not elsewhere specified
P006	Aluminum phosphide	P031	Cyanogen
P007	5-(Aminomethyl)-3-isoxazolol	P033	Cyanogen chloride
P008	4-aAminopyridine	P036	Dichlorophenylarsine
P009	Ammonium picrate (R)	P037	Dieldrin
P119	Ammonium vanadate	P038	Diethylarsine
P010	Arsenic acid	P039	O,O-Diethyl S-(2-(ethylthio)ethyl)phosphorothioate
P012	Arsenic (III) oxide	P041	Diethyl-p-nitrophenyl phosphate
P011	Arsenic (V) oxide	P040	O,O-Diethyl O-pyrazinyl phosphorothioate
P011	Arsenic pentoxide	P043	Diisopropyl fluorophosphate
P012	Arsenic trioxide	P044	Dimethoate
P038	Arsine, diethyl-	P045	3,3-Dimethyl-1-(methylthio)-2-butanone, O-((methylamino)carbonyl) oxime
P054	Aziridine	P071	O,O-Dimethyl O-p-nitrophenyl phosphorothioate
P013	Barium cyanide	P082	Dimethylnitrosamine
P024	Benzenamine, 4-chloro-	P046	alpha, alpha-Dimethylphenethylamine
P077	Benzenamine, 4-nitro-	P047	4,6-Dinitro-o-cresol and salts
P028	Benzene, (chloromethyl)-	P034	4,6-Dinitro-o-cyclohexyphenol
P042	1,2-Benzenediol, 4-(1-hydroxy-2-(methylamino)ethyl)-	P048	2,4-Dinitrophenol
P014	Benzenethiol	P020	Dinoseb
P028	Benzyl chloride	P085	Diphosphoramidate, octamethyl-
P015	Beryllium dust	P039	Disulfoton
P016	Bis(chloromethyl) ether	P049	2,4-Dithiobiuret
P017	Bromoacetone	P109	Dithiopyrophosphoric acid, tetraethyl ester
P018	Brucine	P050	Endosulfan
P021	Calcium cyanide	P088	Endothall
P123	Camphene, octachloro-	P051	Endrin
		P042	Epinephrine
		P046	Ethanamine, 1,1-dimethyl-2-phenyl-
		P084	Ethenamine, N-methyl-N-nitroso-
		P101	Ethyl cyanide
		P054	Ethylenimine
		P097	Famphur
		P056	Fluorine
		P057	Fluoroacetamide
		P058	Fluoroacetic acid, sodium salt
		P065	Fulminic acid, mercury (II) salt (R,T)
		P059	Heptachlor
		P051	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a, 5,6,7,8,8a-octahydro-endo, endo-1,4:5,8-dimethanonaphthalene
		P037	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo, exo-1,4:5,8-demethanonaphthalene
		P060	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo, endo-dimethanonaphthalene
		P004	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo, exodimethanonaphthalene
		P060	Hexachlorohexahydro-exo-dimethanonaphthalene
		P062	Hexaethyl tetraphosphate
		P116	Hydrazinecarbothioamide

P068	Hydrazine, methyl	P110	Plumbane, tetraethyl-
P063	Hydrocyanic acid	P098	Potassium cyanide
P063	Hydrogen cyanide	P099	Potassium silver cyanide
P096	Hydrogen phosphide	P070	Propanal, 2-methyl-2-(methylthio)-, O-((methylamino)carbonyl)oxime
P064	Isocyanic acid, methyl ester	P101	Propanenitrile
P007	3(2H)-Isoxazolone, 5-(aminomethyl)-	P027	Propanenitrile, 3-chloro-
P092	Mercury, (acetato-O) phenyl-	P069	Propanenitrile, 2-hydroxy-2-methyl-
P065	Mercury fulminate (R, T)	P081	1,2,3-Propanetriol, trinitrate-(R)
P016	Methane, oxybis (chloro-)	P017	2-Propanone, 1-bromo-
P112	Methane, tetranitro-(R)	P102	Propargyl alcohol
P118	Methanethiol, trichloro-	P003	2-Propenal
P059	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-	P005	2-Propen-1-ol
P066	Methomyl	P067	1,2-Propylenimine
P067	2-Methylaziridine	P102	2-Propyn-1-ol
P068	Methyl hydrazine	P008	4-Pyridinamine
P064	Methyl isocyanate	P075	Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl); and salts
P069	2-Methylactonitrile	P111	Pyrophosphoric acid, tetraethyl ester
P071	Methyl parathion	P103	Selenourea
P072	alpha-Naphthylthiourea	P104	Silver cyanide
P073	Nickel carbonyl	P105	Sodium azide
P074	Nickel cyanide	P106	Sodium cyanide
P074	Nickel (II) cyanide	P107	Strontium sulfide
P073	Nickel tetracarbonyl	P108	Strychnidin-10-one, and salts
P075	Nicotine and salts	P018	Strychnidin-10-one, 2, 3-dimethoxy
P076	Nitric oxide	P108	Strychnine and salts
P077	p-Nitroaniline	P115	Sulfuric acid, thallium(I) salt
P078	Nitrogen dioxide	P109	Tetraethyldithiopyrophosphate
P076	Nitrogen (II) oxide	P110	Tetraethyl lead
P078	Nitrogen (IV) oxide	P111	Tetraethylpyrophosphate
P081	Nitroglycerine (R)	P112	Tetranitromethane (R)
P082	N-Nitrosodimethylamine	P062	Tetraphosphoric acid, hexaethyl ester
P084	N-Nitrosomethylvinylamine	P113	Thallic oxide
P050	5-Norbornene-2,3-dimethanol, 1,4,5,6,7,7-hexachloro, cyclic sulfite	P113	(III) oxide
P085	Octamethylpyrophosphoramidate	P114	Thallium (I) selenite
P087	Osmium oxide	P115	Thallium (I) sulfate
P087	Osmium tetroxide	P045	Thiofanox
P088	7-Oxabicyclo (2.2.1)heptane-2,3-dicarboxylic acid	P049	Thioimidodicarbonic diamide
P089	Parathion	P014	Thiophenol
P034	Phenol, 2-cyclohexyl-4, 6-dinitro-	P116	Thiosemicarbazide
P048	Phenol, 2, 4-dinitro	P026	Thiourea, (2-chlorophenyl)-
P047	Phenol, 2, 4-dinitro-6-methyl-	P072	Thiourea, 1-naphthalenyl-
P020	Phenol, 2,4-dinitro-6-(1-methylpropyl)-	P093	Thiourea, phenyl-
P009	Phenol, 2,4,6-trinitro-, ammonium salt (R)	P123	Toxaphene
P036	Phenyl dichloroarsine	P118	Trichloromethanethiol
P092	Phenylmercuric acetate	P119	Vanadic acid, ammonium salt
P093	N-Phenylthiourea	P120	Vanadium pentoxide
P094	Phorate	P120	Vanadium (V) oxide
P095	Phosgene	P001	Warfarin, when present at concentrations greater than 9.3%
P096	Phosphine	P121	Zinc cyanide
P041	Phosphoric acid, diethyl p-nitrophenyl ester	P122	Zinc phosphide, when present at concentrations greater than 10%[(R, T)]
P044	Phosphorodithioic acid, O, O-dimethyl S-(2(methylamino)-2-oxoethyl) ester		
P043	Phosphorofluoric acid, bis (1-methylethyl) ester		
P094	Phosphorothioic acid, O, O-diethyl S-(ethylthio) methyl ester		
P089	Phosphorothioic acid, O, O-diethyl O-(p-nitrophenyl) ester		
P040	Phosphorothioic acid, O, O-diethyl O-pyrazinyl ester		
P097	Phosphorothioic acid, O, O-dimethyl O-(p((dimethylamino)-sulfonyl)phenyl) ester		

(6) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products referred to in subsections (1) through (4) of this section, are identified as toxic wastes (T) unless otherwise designated and are subject to the small quantity exclusion defined in Section 5(1) and (6) of 401 KAR 31:010.

(NOTE: The primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R (Reactivity), I (Ignitability) and C (Corrosivity). Absence of a letter indicates that the compound is only listed for toxicity.) These wastes and their corresponding EPA Hazardous Waste Numbers are:

Hazardous Waste No.	Substance		
U001	Acetaldehyde (I)	U017	Benzene, (dichloromethyl)-
U034	Acetaldehyde, trichloro-	U223	Benzene, 1,3-diisocyanatomethyl- (R,T)
U187	Acetamide, N-(4-ethoxyphenyl)-	U239	Benzene, dimethyl- (I,T)
U005	Acetamide, N-9H-fluoren-2-yl-	U201	1,3-Benzenediol
U112	Acetic acid, ethyl ester (I)	U127	Benzene, hexachloro-
U144	Acetic acid, lead salt	U056	Benzene, hexahydro (I)-
U214	Acetic acid, thallium (I) salt	U188	Benzene, hydroxy-
U002	Acetone (I)	U220	Benzene, methyl-
U003	Acetonitrile (I,T)	U105	Benzene, 1-methyl-1-2, 4-dinitro-
U004	Acetophenone	U106	Benzene, 1-methyl-2,6-dinitro-
U005	2-Acetylaminofluorene	U203	Benzene, 1,2-methylenedioxy-4-allyl-
U006	Acetyl chloride (C,R,T)	U141	Benzene, 1,2-methylenedioxy-4-propenyl-
U007	Acrylamide	U090	Benzene, 1,2-methylenedioxy-4-propyl-
U008	Acrylic acid (I)	U055	Benzene, (1-methylethyl), (I)
U009	Acrylonitrile	U169	Benzene, nitro- (I,T)
U150	Alanine, 3-(p-bis(2-chlorethyl)amino) phenyl-, L-	U183	Benzene, pentachloro-
U248	3-(alpha-Acentonylbenzyl)-4-hydroxycoumarin and salts, when present at concentrations of 0.3% or less	U185	Benzene, pentachloro-nitro-
U011	Amitrole	U020	Benzenesulfonic acid chloride (C,R)
U012	Aniline (I,T)	U020	Benzenesulfonyl chloride (C,R)
U014	Auramine	U207	Benzene, 1,2,4,5-tetrachloro-
U015	Azaserine	U023	Benzene, (trichloromethyl)- (C,R,T)
U010	Azirino (2',3':3,4) pyrrolo (1,2-a) indole-4, 7-dione, 6-amino-8-(((aminocarbonyl) oxy) methyl)-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-	U234	Benzene, 1,3,5-trinitro- (R,T)
U157	Benz(j)aceanthrylene, 1,2-dihydro-3-methyl-	U021	Benzidine
U016	Benz(c)acridine	U202	1,2-Benzisothiazolin-3-one, 1, 1-dioxide
U016	3,4-Benzacridine	U120	Benzo(j,k)fluorene
U017	Benzal chloride	U022	Benzo(a)pyrene
U018	Benz(a)anthracene	U022	3,4-Benzopyrene
U018	1,2-Benzanthracene	U197	p-Benzoquinone
U094	1,2-Benzanthracene, 7,12-dimethyl-	U023	Benzotrichloride (C,R,T)
U012	Benzenamine (I,T)	U050	1,2-Benzphenanthrene
U014	Benzenamine, 4,4'-carbonimidoylbis (N, N-dimethyl-)	U085	2,2-Bioxirane (I,T)
U049	Benzenamine, 4-chloro-2-methyl-	U021	(1,1'-Biphenyl)-4,4'-diamine
U093	Benzenamine, N, N'-dimethyl-4-phenylazo-	U073	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dichloro-
U158	Benzenamine, 4,4'-methylenebis (2-chloro-)	U091	(1,1'-Biphenyl)-4,4'-diamine, 3,3',dime
U222	Benzenamine, 2-methyl-, hydrochloride	U095	thoxy-
U181	Benzenamine, 2-methyl-5-nitro	U024	(1,1'-Biphenyl)-4,4'-diamine, 3,3',dime
U019	Benzene (I,T)	U027	thyl-
U038	Benzenecetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy, ethyl ester	U244	Bis(2-chloroethoxy) methane
U030	Benzene, 1-bromo-4-phenoxy-	U028	Bis(2-chloroisopropyl) ether
U037	Benzene, chloro-	U246	Bis(dimethylthiocarbamoyl) disulfide
U190	1,2-Benzenedicarboxylic acid anhydride	U225	Bis(2-ethylhexyl) phthalate
U028	1,2-Benzenedicarboxylic acid, (bis(2-ethylhexyl)) ester	U030	Bromine cyanide
U069	1,2-Benzenedicarboxylic acid, dibutyl ester	U128	Bromoforn
U088	1,2-Benzenedicarboxylic acid, diethyl ester	U172	4-Bromophenyl phenyl ether
U102	1,2-Benzenedicarboxylic acid, dimethyl ester	U035	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
U107	1,2-Benzenedicarboxylic acid, di-n-octyl ester	U031	1-Butanamine, N.-butyl-N-nitroso
U070	Benzene, 1,2-dichloro-	U136	Butanoic acid, 4-(Bis(2-chloro-ethyl)amino benzene-
U071	Benzene, 1,3-dichloro-	U032	1-Butanol (I)
U072	Benzene, 1,4-cichloro-	U238	2-Butanone (I,T)
		U178	2-Butanone peroxide (R,T)
		U176	2-Butenal
		U177	2-Butene, 1,4-dichloro- (I,T)
		U219	n-Butyl alcohol (I)
		U097	Cacodylic acid
		U215	Calcium chromate
		U156	Carbamic acid, ethyl ester
		U033	Carbamic acid, methylnitroso-, ethyl ester
		U211	Carbamide, N-ethyl-N-nitroso-
		U033	Carbamide, N-methyl-N-nitroso-
			Carbamide, thio-
			Carbamoyl chloride, dimethyl-
			Carbonic acid, dithallium (I) salt
			Carbonochloridic acid, methyl ester (I,T)
			Carbon oxyfluoride (R,T)
			Carbon tetrachloride
			Carbonyl fluoride (R,T)

U034	Chloral	U089	Diethylstilbestrol
U035	Chlorambucil	U148	1,2-Dihydro-3,6-pyridazinedione
U036	Chlordane, technical	U090	Dihydrosafrole
U026	Chlornaphazine	U091	3,3'-Dimethoxybenzidine
U037	Chlorobenzene	U092	Dimethylamine (I)
U039	4-Chloro-m-cresol	U093	Dimethylaminoazobenzene
U041	1-Chloro-2,3-epoxypropane	U094	7,12-Dimethylbenz(a)anthracene
U042	2-Chloroethyl vinyl ether	U095	3,3'-Dimethylbenzidine
U044	Chloroform	U096	alpha, alpha-Dimethylbenzylhydroperoxide (R)
U046	Chloromethyl methyl ether	U097	Dimethylcarbamoyl chloride
U047	beta-Chloronaphthalene	U098	1,1-Dimethylhydrazine
U048	o-Chlorophenol	U099	1,2-Dimethylhydrazine
U049	4-Chloro-o-toluidine, hydrochloride	U101	2,4-Dimethylphenol
U032	Chromic acid, calcium salt	U102	Dimethyl phthalate
U050	Chrysene	U103	Dimethyl sulfate
U051	Creosote	U105	2,4-Dinitrotoluene
U052	Cresols	U106	2,6-Dinitrotoluene
U052	Cresylic acid	U107	Di-n-octyl phthalate
U053	Crotonaldehyde	U108	1,4-Dioxane
U055	Cumene (I)	U109	1,2-Diphenylhydrazine
U246	Cyanogen bromide	U110	Dipropylamine (I)
U197	1,4-Cyclohexadienedione	U111	Di-N-propylnitrosamine
U056	Cyclohexane (I)	U001	Ethanal (I)
U057	Cyclohexanone (I)	U174	Ethanamine, N-ethyl-N-nitroso-
U130	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-	U067	Ethane, 1,2-dibromo-
U058	Cyclophosphamide	U076	Ethane, 1,1-dichloro-
U240	2,4-D, salts and esters	U077	Ethane, 1,2-dichloro-
U059	Dauromycin	U114	1,2-Ethanedithiolbiscarbamodithioic acid
U060	DDD	U131	Ethane, 1,1,1,2,2,2-hexachloro-
U061	DDT	U024	Ethane, 1,1'-(methylenebis(oxy))bis(2-chloro-)
U142	Decachlorooctahydro-1,3,4-metheno-2H-cyclobuta (c,d)-pentalen-2-one	U003	Ethanenitrile (I, T)
U062	Diallate	U117	Ethane, 1,1'-oxybis- (I)
U133	Diamine (R, T)	U025	Ethane, 1,1'-oxybis(2-chloro-)
U221	Diaminotoluene	U184	Ethane, pentachloro-
U063	Dibenz(a,h) anthracene	U208	Ethane, 1,1,1,2-tetrachloro-
U063	1,2:5,6-Dibenzanthracene	U209	Ethane, 1,1,2,2-tetrachloro-
U064	1,2:7,8-Dibenzopyrene	U218	Ethanethioamide
U064	Dibenz(a,i) pyrene	U227	Ethane, 1,1,2-trichloro-
U066	1,2-Dibromo-3-chloropropane	U247	Ethane, 1,1,1,1-trichloro-2,2-bis(p-methoxyphenyl)
U069	Dibutyl phthalate	U043	Ethene, chloro-
U062	S-(2,3-Dichloroallyl) diisopropylthiocarbamate	U042	Ethene, 2-chlorethoxy-
U070	o-Dichlorobenzene	U078	Ethene, 1,1-dischloro
U071	m-Dichlorobenzene	U079	Ethene, trans-1,2-dichloro-
U072	p-Dichlorobenzene	U210	Ethene, 1,1,2,2-tetrachloro-
U073	3,3'-Dichlorobenzidine	U173	Ethanol, 2,2'-(nitrosoimino) bis-
U074	1,4-Dichloro-2-butene (I, T)	U004	Ethanone, 1-phenyl
U075	Dichlorodifluoromethane	U006	Ethanoyl chloride (C, R, T)
U192	3,5-Dichloro-N-(1,1-dimethyl-2-propynyl) benzamide	U112	Ethyl acetate (I)
U060	Dichloro diphenyl dichloroethane	U113	Ethyl acrylate (I)
U061	Dichloro diphenyl trichloroethane	U238	Ethyl carbamate (urethan)
U078	1,1-Dichloroethylene	U038	Ethyl 4,4'-dichlorobenzilate
U079	1,2-Dichloroethylene	U114	Ethylenebis (dithiocarbamic acid)
U025	Dichloroethyl ether	U067	Ethylene dibromide
U081	2,4-Dichlorophenol	U077	Ethylene dichloride
U082	2,6-Dichlorophenol	U115	Ethylene oxide (I, T)
U240	2,4-Dichlorophenoxyacetic acid, salts and esters	U116	Ethylene thiourea
U083	1,2-Dichloropropane	U117	Ethyl ether (I)
U084	1,3-Dichloropropene	U076	Ethylidene dichloride
U085	1,2,3,4-Diepoxybutane (I, T)	U118	Ethylmethacrylate
U108	1,4-Diethylene dioxide	U119	Ethyl methanesulfonate
U086	N, N-Diethylhydrazine	U139	Ferric dextran
U087	O, O-Diethyl-S-methyl-dithiophosphate	U120	Fluoranthene
U088	Diethyl phthalate	U122	Formaldehyde
		U123	Formic acid (C, T)
		U124	Furan (I)

U125	2-Furancarboxaldehyde (I)	U045	Methyl chloride (I, T)
U147	2,5-Furandione	U156	Methyl chlorocarbonate (I, T)
U213	Furan, tetrahydro- (I)	U226	Methylchloroform
U125	Furfural (I)	U157	3-Methylcholanthrene
U124	Furfuran (I)	U158	4,4'-Methylenebis (2-chloroaniline)
U206	D-Glucopyranose, 2-deoxy-2(3-methyl-3-nitrosouredo)	U132	2,2'-Methylenebis (3,4,6-trichlorophenol)
U126	Glycidylaldehyde	U068	Methylene bromide
U163	Guanidine, N-nitroso-N-methyl-N'nitro-	U080	Methylene chloride
U127	Hexachlorobenzene	U122	Methylene oxide
U128	Hexachlorobutadiene	U159	Methyl ethyl ketone (I, T)
U129	Hexachlorocyclohexane (gamma isomer)	U160	Methyl ethyl ketone peroxide (R, T)
U130	Hexachlorocyclopentadiene	U138	Methyl iodide
U131	Hexachloroethane	U161	Methyl isobutyl ketone (I)
U132	Hexachlorophene	U162	Methyl methacrylate (I, T)
U243	Hexachloropropene	U163	N-Methyl-N'-nitro-N-nitrosoguanidine
U133	Hydrazine (R, T)	U161	4-Methyl-2-pentanone (I)
U086	Hydrazine, 1,2-diethyl	U164	Methylthiouracil
U098	Hydrazine, 1,1-dimethyl-	U010	Mitomycin C
U099	Hydrazine, 1,2-dimethyl	U059	5,12-Naphthacenedione, (8S-cis)-8-acetyl-
U109	Hydrazine, 1,2-diphenyl		10-((3-amino-2,3,6-trideoxy-alpha-L-lyxohexopyranosyl)oxyl)-7,8,9,
U134	Hydrofluoric acid (C, T)		10, tetrahydro-6,8,11-trihydroxy-1-methoxy-
U134	Hydrogen fluoride (C, T)		Naphthalene
U135	Hydrogen sulfide	U165	Naphthalene, 2-chloro-
U096	Hydroperoxide, 1-methyl-1-phenylethyl (R)	U047	1,4-Naphthalenedione
		U166	2,7-Naphthalenedisulfonic acid, 3,3'-
U136	Hydroxydimethylarsine oxide	U236	((3,3'-dimethyl-(1,1'-biphenyl)-4,4'diyl)) bis(azo)bis(5)-amino-4-hydroxy),-tetrasodium salt
U116	2-Imidazolidinethione		1,4,Naphthaquinone
U137	Indeno(1,2,3-cd) pyrene	U166	1-Naphthylamine
U139	Iron dextran	U167	2-Naphthylamine
U140	Isobutyl alcohol (I, T)	U167	alpha-Naphthylamine
U141	Isosafrole	U168	beta-Naphthylamine
U142	Kepone	U168	2-Naphthylamine, N, N'-bis(2-chloromethyl)-
U143	Lasiocarpine	U026	Nitrobenzene (I, T)
U144	Lead acetate		p-Nitrobenzene
U145	Lead phosphate	U169	2-Nitropropane (I)
U146	Lead subacetate	U170	N-Nitrosodi-n-butylamine
U129	Lindane	U171	N-Nitrosodiethanolamine
U147	Maleic anhydride	U172	N-Nitrosodiethylamine
U148	Maleic hydrazide	U173	N-Nitroso-N-propylamine
U149	Malononitrile	U174	N-Nitroso-N-ethylurea
U150	Melphalan	U111	N-Nitroso-N-methylurea
U151	Mercury	U176	N-Nitroso-N-methylurethane
U152	Methacrylonitrile (I, T)	U177	N-Nitrosopiperidine
U092	Methanamine, N-methyl- (I)	U178	N-Nitrosopyrrolidine
U029	Methane, bromo-	U179	5-Nitro-o-toluidine
U045	Methane, chloro- (I, T)	U180	1,2-Oxathiolane, 2,2-dioxide
U046	Methane, chloromethoxy-	U181	2H-1,3,2-Oxazaphosphorine, 2-(bis(2-chloro-ethyl)amino)tetrahydro-, oxide
U068	Methane, dibromo-	U193	2-
U080	Methane, dichloro-	U058	Oxirane (I, T)
U075	Methane, dichlorodifluoro-		Oxirane, 2-(chloromethyl)-
U138	Methane, iodo-	U115	Paraldehyde
U119	Methanesulfonic acid, ethyl ester	U041	Pentachlorobenzene
U211	Methane, tetrachloro-	U182	Pentachloroethane
U121	Methane, trichlorofluoro-	U183	Pentachloronitrobenzene
U153	Methanethiol (I, T)	U184	Pentachlorophenol
U225	Methane, tribromo-	U185	1,3-Pentadiene (I)
U044	Methane, trichloro-	U242	Phenacetin
U121	Methane, trichlorofluoro-	U186	Phenol
U123	Methanoic acid (C, T)	U187	Phenol, 2-chloro-
U036	4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3a,4,7,7a-tetrahydro-	U188	Phenol, 4-chloro-3-methyl-
		U048	Phenol, 2,4-dichloro-
U154	Methanol (I)	U039	Phenol, 2,6-dichloro-
U155	Methapyrilene	U081	
U247	Methoxychlor	U082	
U154	Methyl alcohol (I)		
U029	Methyl bromide		
U186	1-Methylbutadiene (I)		

U101	Phenol, 2,4-dimethyl-	U212	2,3,4,6-Tetrachlorophenol
U170	Phenol, 4-nitro-	U213	Tetrahydrofuran (I)
U242	Phenol, pentachloro-	U214	Thallium (I) acetate
U212	Phenol, 2,3,4,6-tetrachloro-	U215	Thallium (I) carbonate
U230	Phenol, 2,4,5-trichloro-	U216	Thallium (I) chloride
U231	Phenol, 2,4,6-trichloro-	U217	Thallium (I) nitrate
U137	1,10-(1,2-phenylene) pyrene	U218	Thioacetamide
U145	Phosphoric acid, Lead salt	U153	Thiomethanol (I, T)
U087	Phosphorodithioic acid, 0,0-diethyl-, S-methylester	U219	Thiourea
U189	Phosphorus sulfide (R)	U244	Thiram
U190	Phthalic anhydride	U220	Toluene
U191	2-Picoline	U221	Toluenediamine
U192	Pronamide	U223	Toluene diisocyanate (R, T)
U194	1-Propanamine, (I, T)	U222	O-Toluidine hydrochloride
U110	1-Propanamine, N-propyl- (I)	U011	1H-1,2,4-Triazol-3-amine
U066	Propane, 1,2-dibromo-3-chloro-	U226	1,1,1-Trichloroethane
U149	Propanedinitrile	U227	1,1,2-Trichloroethane
U171	Propane, 2-nitro- (I)	U228	Trichloroethene
U027	Propane, 2,2'-oxybis (2-chloro-)	U228	Trichloroethylene
U193	1,3-Propane sultone	U121	Trichloromonofluoromethane
U235	1-Propanol, 2,3-dibromo-, phosphate (3:1)	U230	2,4,5-Trichlorophenol
U126	1-Propanol, 2,3-epoxy	U231	2,4,6-Trichlorophenol
U140	1-Propanol, 2-methyl- (I, T)	U232	2,4,5-Trichlorophenoxyacetic acid
U002	2-Propanone (I)	U234	sym-Trinitrobenzene (R, T)
U007	2-Propenamide	U182	1,3,5-Trioxane, 2,4,5-trimethyl-
U084	Propene, 1,3-dichloro-	U235	Tris(2,3-dibromopropyl) phosphate
U243	1-Propene, 1,1,2,3,3,3-hexachloro-	U236	Trypan blue
U009	2-Propenenitrile	U237	Uracil, 5(bis(2-chloromethyl) amino)
U152	2-Propenenitrile, 2-methyl- (I, T)	U237	Uracil mustard
U008	2-Propenoic acid (I)	U043	Vinyl chloride
U113	2-Propenoic acid, ethyl ester (I)	U248	Warfarin, when present at concentrations of 0.3% or less
U118	2-Propenoic acid, 2-methyl-, ethyl ester	U239	Xylene (I)
U162	2-Propenoic acid, 2-methyl, methyl ester (I, T)	U200	Yohimban-16-carboxylic acid, 11, 17- dimethoxy-18((3,4,5-trimethoxy- benzoyl)oxy)-, methyl ester
U233	Propionic acid, 2-(2,4,5,-trichlorophen- oxy)-	U249	Zinc phosphide, when present at concen- trations of 10% or less
U194	n-Propylamine (I, T)		
U083	Propylene dichloride		
U196	Pyridine		
U155	Pyridine, 2-(2-(dimethylamino)-2- thenylamino)-		
U179	Pyridine, hexahydro-N-nitroso-		
U191	Pyridine, 2-methyl		
U164	4(1H)-Pyrimidinone, 2,3-dihydro-6- methyl-2-thioxo-		
U180	Pyrrole, tetrahydro-N-nitroso		
U200	Reserpine		
U201	Resorcinol		
U202	Saccharin and salts		
U203	Safrole		
U204	Selenious acid		
U204	Selenium dioxide		
U205	Selenium disulfide (R, T)		
U015	L-Serine, diazoacetate (ester)		
U233	Silvex		
U089	4,4'-Stilbenediol, alpha, alpha'-diethyl-		
U206	Streptozotocin		
U135	Sulfur hydride		
U103	Sulfuric acid, dimethyl ester		
U189	Sulfur phosphide (R)		
U205	Sulfur selenide (R, T)		
U232	2,4,5-T		
U207	1,2,4,5,-Tetrachlorobenzene		
U208	1,1,1,2-Tetrachloroethane		
U209	1,1,2,2-Tetrachloroethane		
U210	Tetrachloroethylene		

CHARLOTTE E. BALDWIN, Secretary

ADOPTED: September 5, 1984

RECEIVED BY LRC: September 6, 1984 at noon.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET**
Department for Environmental Protection
Division of Waste Management
Amended After Hearing

**401 KAR 32:100. Appendix on hazardous waste
manifest and instructions.**

RELATES TO: KRS 224.033, 224.830 through
224.877, 224.994

PURSUANT TO: KRS 13A.210, 224.033, 224.864

NECESSITY AND FUNCTION: KRS 224.864 requires
the cabinet to promulgate regulations to establish stan-
dards for the generation of hazardous wastes. This chapter
establishes standards applicable to generators of hazardous
waste. This regulation establishes a uniform hazardous
waste manifest and the Kentucky instructions for each
form.

Section 1. Applicability. This regulation prescribes the
manifest forms and the instructions which are required by
the cabinet in accordance with the provisions of 401 KAR
32:020 and 401 KAR 32:050. When a generator or a hazar-

dous waste site or facility prints copies of these forms, the following two (2) sentences may be printed on the top of the first page of the manifest form:

THE INFORMATION IN THE SHADED AREAS—D, F, H, I AND K—IS REQUIRED BY KENTUCKY LAW.

IN THE EVENT OF A SPILL INSIDE KENTUCKY, CALL (502) 564-2380 WITHIN TWO (2) HOURS OF THE SPILL.

When a generator or a hazardous waste site or facility prints copies of these forms, the following sentence may be printed on the top of the continuation sheet(s):

THE INFORMATION IN THE SHADED AREAS—O, Q, R AND T—IS REQUIRED BY KENTUCKY LAW.

Section 2. Manifest Form. The first page of the manifest form shall be as contained in Appendix A of this regulation.

Section 3. Kentucky Instructions for First Page of the Manifest Form. Read all instructions before completing this form.

This form has been designed for use on a 12-pitch (elite) typewriter; a firm point pen may also be used—press down hard.

KENTUCKY REGULATIONS REQUIRE GENERATORS AND TRANSPORTERS OF HAZARDOUS WASTE AND OWNERS OR OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES TO USE THIS FIRST PAGE OF THE FORM AND, IF NECESSARY, THE CONTINUATION SHEET(S).

KENTUCKY REGULATIONS ALSO REQUIRE GENERATORS AND TRANSPORTERS OF HAZARDOUS WASTE AND OWNERS OR OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES TO COMPLETE THE FOLLOWING INFORMATION:

GENERATORS

Item 1. Generator's U.S. EPA ID Number—Manifest Document Number. Enter the generator's U.S. EPA twelve digit identification number and the unique five digit number assigned to this Manifest (e.g., 00001) by the generator.

Item 2. Page 1 of _____. Enter the total number of pages used to complete this Manifest, i.e., the first page plus the number of Continuation Sheets, if any.

Item 3. Generator's Name and Mailing Address. Enter the name and mailing address of the generator. The address should be the location that will manage the returned Manifest forms.

Item 4. Generator's Phone Number. Enter a telephone number where an authorized agent of the generator may be reached in the event of an emergency.

Item 5. Transporter 1 Company Name. Enter the company name of the first transporter who will transport the waste.

Item 6. U.S. EPA ID Number. Enter the U.S. EPA twelve digit identification number of the first transporter identified in Item 5.

Item D. Transporter's Phone. Enter the telephone number of the transporter identified in Item 5.

Item 7. Transporter 2 Company Name. If applicable, enter the company name of the second transporter who will transport the waste. If more than two transporters are used to transport the waste, use a Continuation Sheet(s) and list the transporters in the order they will be transporting the waste.

Item 8. U.S. EPA ID Number. If applicable, enter the U.S. EPA twelve digit identification number of the second transporter identified in Item 7.

Item F. Transporter's Phone. Enter the telephone number of the transporter identified in Item 7.

NOTE: If more than two transporters are used, enter each additional transporter's company name and U.S. EPA twelve digit identification number in Items 24-27 on the Continuation Sheet. Each Continuation Sheet has space to record two additional transporters. Every transporter used between the generator and the designated facility must be listed.

Item 9. Designated Facility Name and Site Address. Enter the company name and site address of the facility designated to receive the waste listed on this Manifest. The address must be the site address, which may differ from the company mailing address.

Item 10. U.S. EPA ID Number. Enter the U.S. EPA twelve digit identification number of the designated facility identified in Item 9.

Item H. Facility's Phone. Enter the telephone number of the facility identified in Item 9.

Item 11. U.S. DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number (Un/NA)). Enter the U.S. DOT Proper Shipping Name, Hazard Class, and ID Number (Un/NA) for each waste as identified in 49 CFR Parts 171 through 177.

NOTE: If additional space is needed for waste descriptions, enter these additional descriptions in Item 28 on the Continuation Sheet.

Item 12. Containers (No. and Type). Enter the number of containers for each waste and the appropriate abbreviation from Table I (below) for the type of container.

Table I—Types of Containers

DM = Metal drums, barrels, kegs
DW = Wooden drums, barrels, kegs
DF = Fiberboard or plastic drums, barrels, kegs
TP = Tanks portable
TT = Cargo tanks (tank trucks)
TC = Tank cars
DT = Dump truck
CY = Cylinders
CM = Metal boxes, cartons, cases (including roll-offs)
CW = Wooden boxes, cartons, cases
CF = Fiber or plastic boxes, cartons, cases
BA = Burlap, cloth, paper or plastic bags

Item 13. Total Quantity. Enter the total quantity of waste described on each line.

Item 14. Unit (Wt./Vol.). Enter the appropriate abbreviation from Table II (below) for the unit of measure.

Table II—Units of Measure

G = Gallons (liquids only)
P = Pounds
T = Tons (2000 lbs)
Y = Cubic yards
L = Liters (liquids only)
K = Kilograms
M = Metric tons (1000 kg)
N = Cubic meters

Item I. Waste Number. Enter the EPA hazardous waste number for each waste.

Item K. Handling Codes for Waste Listed Above. Enter the appropriate handling code(s) for the wastes listed in Item 11. Table III contains the handling codes.

Table III—Handling Codes for Treatment, Storage, and Disposal Methods

(Enter the handling code(s) listed below that most closely represents the technique(s) used at the facility to treat, store, or dispose of each quantity of hazardous waste received.)

1. Storage			
S01	Container (barrel, drum, etc.)	S03	Waste pile
S02	Tank	S04	Surface impoundment
		S05	Other (specify)
2. Treatment			
(a) Thermal Treatment			
T06	Liquid injection incinerator	T13	Wet air oxidation
T07	Rotary kiln incinerator	T14	Calcination
T08	Fluidized bed incinerator	T15	Microwave discharge
T09	Multiple hearth incinerator	T16	Cement kiln
T10	Infrared furnace incinerator	T17	Incineration
T11	Molten salt destructor	T18	Other (specify)
T12	Pyrolysis		
(b) Chemical Treatment			
T19	Absorption mound	T27	Cyanide destruction
T20	Absorption field	T28	Degradation
T21	Chemical fixation	T29	Detoxification
T22	Chemical oxidation	T30	Ion exchange
T23	Chemical precipitation	T31	Neutralization
T24	Chemical reduction	T32	Ozonation
T25	Chlorination	T33	Photolysis
T26	Chlorinolysis	T34	Other (specify)

(c) *Physical Treatment*(1) *Separation of components*

T35 Centrifugation	T42 Flotation
T36 Clarification	T43 Foaming
T37 Coagulation	T44 Sedimentation
T38 Decanting	T45 Thickening
T39 Encapsulation	T46 Ultrafiltration
T40 Filtration	T47 Other (specify)
T41 Flocculation	

(2) *Removal of Specific Components*

T48 Absorption-molecular sieve	T58 High gradient magnetic separation
T49 Activated carbon	T59 Leaching
T50 Blending	T60 Liquid ion exchange
T51 Catalysis	T61 Liquid-liquid extraction
T52 Crystallization	T62 Reverse osmosis
T53 Dialysis	T63 Solvent recovery
T54 Distillation	T64 Stripping
T55 Electrodialysis	T65 Sand filter
T56 Electrolysis	T66 Other (specify)
T57 Evaporation	

(d) *Biological treatment*

T67 Activated sludge	T73 Spray irrigation
T68 Aerobic lagoon	T74 Thickening filter
T69 Aerobic tank	T75 Trickling filter
T70 Anaerobic lagoon	T76 Waste stabilization pond
T71 Composting	T77 Other (specify)
T72 Septic tank	

3. *Disposal*

D80 Underground injection	D84 Surface impoundment (to be closed as a landfill)
D81 Landfill	D85 Other (specify)
D82 Land treatment	
D83 Ocean disposal	

Item 15. Special Handling Instructions and Additional Information. Generators may use this space to indicate special transportation, treatment, storage, or disposal information or Bill of Lading information in this space. For international shipments, generators must enter in this space the point of departure (City and State) for those shipments destined for treatment, storage, or disposal outside the jurisdiction of the United States.

Item 16. Generator's Certification. The generator must read, sign (by hand), and date the certification statement. If a mode other than highway is used, the word "highway" should be lined out and the appropriate mode (rail, water, or air) inserted in the space below. If another mode in addition to the highway mode is used, enter the appropriate additional mode (e.g., and rail) in the space below.

NOTE: All of the above information except the handwritten signature required in Item 16 may be preprinted.

TRANSPORTERS

Item 17. Transporter 1 Acknowledgement of Receipt of Materials. Enter the name of the person accepting the waste on behalf of the first transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Item 18. Transporter 2 Acknowledgement of Receipt of Materials. Enter, if applicable, the name of the person accepting the waste on behalf of the second transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

NOTE: International Shipments—Transporter Responsibilities.

Exports—Transporters must sign and enter the date the waste left the United States in Item 15 on the first page of the manifest form.

Imports—Shipments of hazardous waste regulated by RCRA and transported into the United States from another country must upon entry be accompanied by the U.S. EPA Uniform Hazardous Waste Manifest. Transporters who transport hazardous waste into the United States from another country are responsible for completing the Manifest (Section 1(3) of 401 KAR 32:010).

OWNERS AND OPERATORS OF
TREATMENT, STORAGE, OR
DISPOSAL FACILITIES

Item 19. Discrepancy Indication Space. The authorized representative of the designated (or alternate) facility's owner or operator must note in this space any significant discrepancy between the waste described on the Manifest and waste actually received at the facility.

Owners and operators of facilities located in Kentucky who cannot resolve significant discrepancies within 15 days of receiving the waste must submit to the Cabinet (Division of Waste Management, 18 Reilly Road, Frankfort, Ky. 40601) a letter with a copy of the Manifest at

issue describing the discrepancy and attempts to reconcile it (Section 3 of 401 KAR 34:050 and Section 3 of 401 KAR 35:050).

Owners and operators of facilities located outside of Kentucky who cannot resolve significant discrepancies must submit to their Regional Administrator (if the U.S. EPA administers the hazardous waste management program), or to their State agency (if the State administers the hazardous waste management program), a letter with a copy of the Manifest at issue describing the discrepancy and attempts to reconcile it.

Item 20. Facility Owner or Operator: Certification of Receipt of Hazardous Materials Covered by This Manifest Except as Noted in Item 19. Print or type the name of the person accepting the waste on behalf of the owner or operator of the facility. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

SHADED AREAS

Kentucky requires generators [and owners or operators of treatment, storage, or disposal facilities] to complete Items D, F, H, I and K as part of Kentucky's manifest reporting requirements.

[Item D. Transporter's Phone. Enter the telephone number of the transporter identified in Item 5.]

[Item F. Transporter's Phone. Enter the telephone number of the transporter identified in Item 7.]

[Item H. Facility's Phone. Enter the telephone number of the facility identified in Item 9.]

Item I. Waste Number. Enter the EPA hazardous waste number for each waste.

[Item K. Handling Codes for Waste Listed Above. Enter the appropriate handling code(s) for the wastes listed in Item 11. Table III contains the handling codes.]

[Table III—Handling Codes for Treatment,
Storage, and Disposal Methods

(Enter the handling code(s) listed below that most closely represents the technique(s) used at the facility to treat, store, or dispose of each quantity of hazardous waste received.)

[1. Storage		S03 Waste pile
S01 Container (barrel, drum, etc.)		S04 Surface impoundment
S02 Tank		S05 Other (specify)]
[2. Treatment		
(a) Thermal Treatment		
T06 Liquid injection incinerator	T13 Wet air oxidation	
T07 Rotary kiln incinerator	T14 Calcination	
T08 Fluidized bed incinerator	T15 Microwave discharge	
T09 Multiple hearth incinerator	T16 Cement kiln	
T10 Infrared furnace incinerator	T17 Lime kiln	
T11 Molten salt destructor	T18 Other (specify)]	
T12 Pyrolysis		
[(b) Chemical Treatment		
T19 Absorption mound	T27 Cyanide destruction	
T20 Absorption field	T28 Degradation	
T21 Chemical fixation	T29 Detoxification	
T22 Chemical oxidation	T30 Ion exchange	
T23 Chemical precipitation	T31 Neutralization	
T24 Chemical reduction	T32 Ozonation	
T25 Chlorination	T33 Photolysis	
T26 Chlorinolysis	T34 Other (specify)]	
[(c) Physical Treatment		
(1) Separation of components		
T35 Centrifugation	T42 Flotation	
T36 Clarification	T43 Foaming	
T37 Coagulation	T44 Sedimentation	
T38 Decanting	T45 Thickening	
T39 Encapsulation	T46 Ultrafiltration	
T40 Filtration	T47 Other (specify)]	
T41 Flocculation		
[(2) Removal of Specific Components		
T48 Absorption-molecular sieve	T58 High gradient magnetic separation	
T49 Activated carbon	T59 Leaching	
T50 Blending	T60 Liquid ion exchange	
T51 Catalysis	T61 Liquid-liquid extraction	
T52 Crystallization	T62 Reverse osmosis	
T53 Dialysis	T63 Solvent recovery	
T54 Distillation	T64 Stripping	
T55 Electrodialysis	T65 Sand filter	
T56 Electrolysis	T66 Other (specify)]	
T57 Evaporation		

[(d) Biological treatment	
T67 Activated sludge	T73 Spray irrigation
T68 Aerobic lagoon	T74 Thickening filter
T69 Aerobic tank	T75 Trickling filter
T70 Anaerobic lagoon	T76 Waste stabilization pond
T71 Composting	T77 Other (specify)]
T72 Septic tank	
[3. Disposal	
D80 Underground injection	D84 Surface impoundment (to
D81 Landfill	be closed as a landfill)
D82 Land treatment	D85 Other (specify)]
D83 Ocean disposal	

Section 4. Continuation Sheet. When all the required information cannot be entered on the first page of the manifest form, the generator shall use one (1) or more continuation sheets. The continuation sheet(s) of the manifest form shall be as contained in Appendix B of this regulation.

Section 5. Instructions for the Continuation Sheet.

Read all instructions before completing this form.

This form has been designed for use on a 12-pitch (elite) typewriter; a firm point pen may also be used—press down hard.

The form must be used as a continuation sheet to the first page of the manifest if:

- More than two transporters are to be used to transport the waste;
- More space is required for the U.S. DOT description and related information in Item 11 of U.S. DOT description and related information in Item 11 of the first page of the manifest form.

Kentucky regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste and owners or operators of hazardous waste treatment, storage, or disposal facilities to use the Uniform Hazardous Waste Manifest (first page) and, if necessary, this Continuation Sheet.

GENERATORS

Item 21. Generator's U.S. EPA ID Number—Manifest Document Number. Enter the generator's U.S. EPA twelve digit identification number and the unique five digit number assigned to this Manifest (e.g., 00001) as it appears in Item 1 on the first page of the Manifest.

Item 22. Page _____. Enter the page number of this Continuation Sheet.

Item 23. Generator's Name. Enter the generator's name as it appears in Item 3 on the first page of the Manifest.

Item 24. Transporter _____ Company Name. If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 3 Company Name. Each Continuation Sheet will record the names of two additional transporters.

Item 25. U.S. EPA ID Number. Enter the U.S. EPA twelve digit identification number of the transporter described in Item 24.

Item O. Transporter's Phone. Enter the telephone number of the transporter identified in Item 24.

Item 26. Transporter _____ Company Name. If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 4 Company Name. Each Continuation Sheet will record the names of two additional transporters.

Item 27. U.S. EPA ID Number. Enter the U.S. EPA twelve digit identification number of the transporter described in Item 26.

Item Q. Transporter's Phone. Enter the telephone number of the transporter identified in Item 26.

Item 28. U.S. DOT Description including Proper Shipping Name, Hazardous Waste Class, and ID Number (UN/NA). Refer to Item 11.

Item 29. Containers (No. and Type). Refer to Item 12.

Item 30. Total Quantity. Refer to Item 13.

Item 31. Unit (Wt./Vol.). Refer to Item 14.

Item R. Waste Number. Enter the EPA hazardous waste number for each waste.

Item T. Handling Codes for Waste Listed Above. Enter the appropriate handling code(s) for the wastes listed in Item 28. Table III under Item K contains the handling codes.

Item 32. Special Handling Instructions. Generators may use this space to indicate special transportation, treatment, storage, or disposal information or Bill of Lading information. States are not authorized to require additional, new or different information in this space.

TRANSPORTERS

Item 33. Transporter _____ Acknowledgement of Receipt of Materials. Enter the same number of the Transporter as identified in Item 24. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in Item 24. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Item 34. Transporter _____ Acknowledgement of Receipt of Materials. Enter the same number as identified in Item 26. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in Item 26. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

OWNERS AND OPERATORS OF TREATMENT, STORAGE, OR DISPOSAL FACILITIES

Item 35. Discrepancy Indication Space. Refer to Item 19.

SHADED AREAS

Kentucky does require generators [and owners or operators of treatment, storage, or disposal facilities] to complete Items O, Q, R and T as part of Kentucky's manifest reporting requirements.

[Item O. Transporter's Phone. Enter the telephone number of the transporter identified in Item 24.]

[Item Q. Transporter's Phone. Enter the telephone number of the transporter identified in Item 26.]

[Item R. Waste Number. Enter the EPA hazardous waste number for each waste.]

[Item T. Handling Codes for Waste Listed Above. Enter the appropriate handling code(s) for the wastes listed in Item 28. Table III under Item K contains the handling codes.]

CHARLOTTE E. BALDWIN, Secretary
APPROVED BY AGENCY: September 5, 1984
FILED WITH LRC: September 6, 1984 at noon.

(See Appendix A on following pages.)

ADMINISTRATIVE REGISTER

APPENDIX A TO 401 KAR 32:100

Please print or type. (Form designed for use on elite (12-pitch) typewriter.)

UNIFORM HAZARDOUS WASTE MANIFEST		1. Generator's US EPA ID No.	Manifest Document No.	2. Page 1 of	Information in the shaded areas is not required by Federal law.			
3. Generator's Name and Mailing Address				A.State Manifest Document Number				
				B.State Generator's ID				
4. Generator's Phone ()				C.State Transporter's ID				
5. Transporter 1 Company Name		6. US EPA ID Number		D.Transporter's Phone				
7. Transporter 2 Company Name		8. US EPA ID Number		E.State Transporter's ID				
9. Designated Facility Name and Site Address		10. US EPA ID Number		F.Transporter's Phone				
				G.State Facility's ID				
				H.Facility's Phone				
11. US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)				12.Containers		13. Total Quantity	14. Unit Wt/Vol	I. Waste No.
				No.	Type			
				a.				
				b.				
				c.				
d.								
J. Additional Descriptions for Materials Listed Above				K.Handling Codes for Wastes Listed Above				
15. Special Handling Instructions and Additional Information								
16. GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national governmental regulations.								
Printed/Typed Name				Signature				Date Month Day Year
17. Transporter 1 Acknowledgement of Receipt of Materials								Date
Printed/Typed Name				Signature				Month Day Year
18. Transporter 2 Acknowledgement or Receipt of Materials								Date
Printed/Typed Name				Signature				Month Day Year
19. Discrepancy Indication Space								
20. Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in Item 19.								
Printed/Typed Name				Signature				Date Month Day Year

Please print or type (Form designed for use on ~~elc~~ (12-pick) typewriter.)

UNIFORM HAZARDOUS WASTE MANIFEST (Continuation Sheet)		21. Generator's US EPA ID No.	Manifest Document No.	22. Page	Information in the shaded areas is not required by Federal law.		
23. Generator's Name				L. State Manifest Document Number			
				M. State Generator's ID			
24. Transporter Company Name		25. US EPA ID Number		N. State Transporter's ID			
				O. Transporter's Phone			
26. Transporter Company Name		27. US EPA ID Number		P. State Transporter's ID			
				Q. Transporter's Phone			
28. US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)		29. Containers		30. Total Quantity	31. Unit Wt. Vol.	R. Waste No.	
a.		No.	Type				
b.							
c.							
d.							
e.							
f.							
g.							
h.							
i.							
S. Additional Descriptions for Materials Listed Above				T. Handling Codes for Wastes Listed Above			
32. Special Handling Instructions and Additional Information							
TRANSPORTER	33. Transporter Acknowledgement of Receipt of Materials				Date		
	Printed/Typed Name		Signature		Month	Day	Year
FACILITY	34. Transporter Acknowledgement of Receipt of Materials				Date		
	Printed/Typed Name		Signature		Month	Day	Year
35. Discrepancy Indication Space							

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET**
Division of Air Pollution
Amended After Hearing

401 KAR 61:165. Existing primary aluminum reduction plants.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the [Department for] Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from existing primary aluminum reduction plants.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility which means each potroom group within a primary aluminum reduction plant commenced before the classification date defined below.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Primary aluminum reduction plant" means any source manufacturing aluminum by electrolytic reduction.

(2) "Potroom" means a building unit which houses a group of electrolytic cells in which aluminum is produced.

(3) "Potroom group" means an uncontrolled potroom, a potroom which is controlled individually, or a group of potrooms or potroom segments ducted to a common control system.

(4) "Roof monitor" means that portion of the roof of a potroom where gases not captured at the cell exit from the potroom.

(5) "Total fluorides" and "gaseous fluorides" means elemental fluorine and all fluoride compounds, as measured and distinguished by reference methods specified in Section 7 or equivalent or alternative methods.

(6) "Primary control system" means an air pollution control system designed to remove gaseous and particulate fluorides from exhaust gases which are captured at the cell.

(7) "Classification date" means October 23, 1974.

(8) "Dry scrubbing plant" means each primary aluminum reduction plant with a primary control system which operates in a manner whereby potroom group gases flow through a reaction bed consisting of alumina prior to being treated by dry removal methods for particulate emissions control. The resulting reaction bed products are then used as feed to the potroom group electrolytic reduction cells.

(9) "Wet scrubbing plant" means each primary aluminum reduction plant with a primary control system which acts in series to remove particulate emissions by dry removal methods, followed by wet scrubbing to remove gaseous fluoride emissions.]

(9) [(10)] "Startup cell" means an electrolytic reduction cell which is initially devoid of any materials other than carbon cathodes and anodes. Such a cell undergoes a prebake period by passing electrical current through anodes resting on the cathode floor, then has the necessary electrolyte and aluminum added, such that it will produce aluminum.

(10) [(11)] "Sick cell" means an electrolytic reduction cell which has lost its proper heat balance, cannot maintain a solid crust, and must be removed from the primary control system to receive corrective attention.

(11) [(12)] "Normal potroom operations" means any potroom activity and includes uncaptured cell gases resulting from startup cells, cell tapping, anode changing, ore additions, or any other potroom operation but does not include operations due to sick cells.

(12) "State Implementation Plan" means the most recently prepared plan or revision thereof required by Section 110 of the Clean Air Act which has been approved by the U.S. EPA.

Section 3. Standard for Visible Emissions. On and after the date on which the performance test required to be conducted by 401 KAR 61:005 is completed, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere:

(1) From any potroom roof monitor any gases which exhibit ten (10) percent opacity or greater during normal potroom operation except startup cells;

(2) From any potroom roof monitor section directly above sick cells or startup cells any gases which exhibit forty (40) percent opacity or greater;

(3) From any dry scrubbing plant primary control system any gases which exhibit ten (10) percent opacity or greater; or

(4) From any primary aluminum reduction plant other than a dry [wet] scrubbing plant primary control system any gases which exhibit twenty-five (25) percent opacity or greater.

Section 4. Standard for Fluorides. (1) On and after the date on which the performance test required to be conducted by 401 KAR 61:005 is completed, the owner or operator subject to the provisions of this regulation shall:

(a) For a dry scrubbing plant cause to be discharged into the atmosphere no gases which contain total fluorides in excess of 1.9 lb/ton of aluminum produced except that emissions between 1.9 lb/ton and 2.5 lb/ton will be considered in compliance if the owner or operator demonstrates to the department's satisfaction that exemplary operation and maintenance procedures were used with respect to the emission control system and that proper control equipment was operating at the affected facility during the performance test.

(b) For any primary aluminum reduction plant other than a dry [a wet] scrubbing plant cause to be discharged into the atmosphere through each potroom roof monitor no gases which contain gaseous fluorides in excess of 3.25 lb/hr.

(c) For a primary aluminum reduction plant other than a dry [wet] scrubbing plant cause to be discharged into the atmosphere from any primary control system no gases which contain gaseous fluorides in excess of 1.0 lbs/ton of aluminum produced except that any such plant may cause to be discharged into the atmosphere gases which contain gaseous fluorides not exceeding 290 lb/hr providing that a State Implementation Plan allowing such emissions has been approved by the U.S. EPA [290 lb/hr] [1.0 lb/ton of aluminum produced]. The minimum stack height for the primary control system shall be 400 feet.

(2) In the event of a recorded violation of the fluoride standard prescribed in 401 KAR 53:010, the department shall require that remedial measures be initiated from the source(s) responsible for causing said violation.

Section 5. Standard for Particulate Emissions. On and after the date on which the performance test required to be conducted by 401 KAR 61:005 is completed, no owner or operator subject to the provisions of this regulation shall

cause to be discharged into the atmosphere from any *primary aluminum reduction plant other than a dry [wet] scrubbing plant* primary control system any gases which contain particulate emissions in excess of 0.010 gr/scf. Addition of dilution air shall not constitute compliance.

Section 6. Monitoring of Operations. (1) The owner or operator of any *primary aluminum reduction plant other than a dry [wet] scrubbing plant* subject to the provisions of this regulation shall install, calibrate, maintain, and operate monitoring devices which can be used to determine daily the weight of the aluminum produced. The weighing devices shall have an accuracy of plus or minus five (5) percent over their operating range.

(2) The owner or operator of any *primary aluminum reduction plant other than a dry [wet] scrubbing plant* shall maintain a record of daily production rates of aluminum, raw material feed rates, and cell or potline voltages.

(3) The owner or operator of any affected facility shall install, use, and maintain ambient air monitoring equipment in accordance with such methods as the department shall prescribe; establish and maintain records of same; and make period emission reports at intervals prescribed by the department.

Section 7. Test Methods and Procedures. (1) Reference methods as defined in Appendix A of 40 CFR 60 or as otherwise specified, filed by reference in 401 KAR 50:015, except as provided for in 401 KAR 50:045, shall be used to determine compliance with the standards prescribed in Section 3, 4 and 5 as follows:

(a) For sampling emissions from stacks:

1. Reference Method 13A or 13B for the concentration of total fluoride and the associated moisture content;
2. Reference Method 1 for sample and velocity traverses;
3. Reference Method 2 for velocity and volumetric flow rate;
4. Reference Method 3 for gas analysis; and
5. Reference Method 5 for particulate emissions.

(b) For sampling emissions from roof monitors not employing stacks or pollutant collection systems:

1. Reference Method 14 and Kentucky Method 130 for the concentration of gaseous fluorides and associated moisture content;
2. Reference Method 1 for sample and velocity traverses;
3. Reference Method 2 and Reference Method 14 for velocity and volumetric flow rate; and
4. Reference Method 3 for gas analysis.

(c) For opacity determination: Reference Method 9.

(2) For Reference Method 13A or 13B, 14, and Kentucky Method 130, the sampling time for each run shall be at least eight (8) hours for any potroom sample, and the minimum sample volume shall be 6.8 dscm (240 dscf) for any potroom sample except that shorter sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the department.

(3) The air pollution control system for each affected facility shall be constructed so that volumetric flow rates and total fluoride emissions can be accurately determined using applicable methods specified under subsection (1) of this section.

(4) The rate of aluminum production is determined by dividing 720 hours into the weight of aluminum tapped from the affected facility during a period of thirty (30) days prior to and including the final run of a performance test.

(5) For each run for any plant with an emission limitation expressed in lbs/ton of aluminum produced [a dry scrubbing plant], potroom group emissions expressed in kg/metric ton of aluminum produced shall be determined using the equation in Appendix A of this regulation.

(6) For any sampling harness which does not comply with Reference Method 14 in Appendix A to 40 CFR 60, as amended on June 30, 1980, the department shall prescribe such sampling procedures as it deems appropriate.

Section 8. Compliance Timetable. (1) The owner or operator of an affected facility shall be required with respect to startup cell and sick cell emissions to achieve compliance with this regulation no later than February 1, 1982, except as provided for under Section 9 of this regulation.

(2) The owner or operator of an affected facility shall be required with respect to the primary removal system to achieve final compliance no later than February 1, 1981.

Section 9. Variance. To allow for technological and economic circumstances unique to a source, variation from the visible emission standard for sick or startup cells specified in Section 3(2) of this regulation shall be granted by the department when supported by adequate technical and economic documentation reasonably acceptable to the department.

CHARLOTTE E. BALDWIN, Secretary

ADOPTED BY AGENCY: August 28, 1984

FILED WITH LRC: August 19, 1984 at 11:25 a.m.

APPENDIX A TO 401 KAR 61:165
EQUATION FOR POTROOM GROUP EMISSIONS
[FOR DRY SCRUBBING PLANTS]

$$E_p = \frac{(CQ)10^{-6} + (CQ)10^{-6}}{M}$$

Where:

E_p = Primary control system emissions of gaseous fluorides in kg/metric ton of aluminum produced at any plant other than a dry scrubbing plant.

[= Primary control system emissions of total fluorides in kg/metric ton of aluminum produced at wet scrubbing plants.]

= Potroom group emissions of total fluorides in kg/metric ton of aluminum produced at dry scrubbing plants.

C = For dry scrubbing plants, concentration of total fluorides in mg/dscm as determined by Reference Method 13A or 13B, or Reference Method 14 as applicable.

= For plants other than dry scrubbing plants, concentration of gaseous fluorides as determined by Kentucky Method 130.

Q = Volumetric flow rate of the effluent gas stream in dscm/hour as determined by Reference Method 2 and/or Reference Method 14, as applicable.

10^{-6} = Conversion factor for mg to kg.

M = Rate of aluminum production in metric ton/hour as determined by Section 7[6](4).

(CQ)₁ = Product of C and Q for measurements of primary control system effluent gas streams.

(CQ)₂ = Product of C and Q for measurements of roof monitor effluent gas stream at dry scrubbing plants. (CQ)₂ shall be equal to zero for any plant other than a dry scrubbing plant [wet scrubbing plants].

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Surface Mining
Reclamation and Enforcement
Amended After Hearing**

405 KAR 7:030. Applicability.

RELATES TO: KRS 350.010, 350.028, 350.057, 350.060, 350.151, 350.465

PURSUANT TO: KRS [13.082,] 350.020, 350.028, 350.465

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to promulgate rules and regulations pertaining to surface coal mining and reclamation operations. This regulation designates Title 405, Chapters 7 through 24 as applicable to all coal exploration and surface coal mining and reclamation operations, and specifies those activities to which Title 405, Chapters 7 through 24 do not apply. This regulation reflects the jurisdiction of the cabinet over coal exploration and surface coal mining and reclamation operations and sets forth certain non-jurisdictional activities.

Section 1. Applicability. Title 405, Chapters 7 through 24 apply to all coal exploration and surface coal mining and reclamation operations, except any surface coal mining and reclamation operation which, together with any related operation, has or will have an affected area of two (2) acres or less in which case the provisions of Title 405, Chapter 26 shall apply.

(1) For purposes of this regulation, where a segment of a road is used for access or coal haulage by more than one (1) surface coal mining operation, the entire segment shall be included in the affected area of each of those operations; provided, that two (2) or more operations which are deemed related pursuant to subsection (2) of this section shall be considered as one (1) operation for the purposes of this subsection.

(2) Except as provided in subsection (3) of this section, surface coal mining operations shall be deemed related if they occur within twelve months of each other, are physically related, and are under common ownership or control.

(a) Operations shall be deemed physically related if drainage for both operations flows into the same watershed at or before a point within five (5) aerial miles of both operations.

(b) Operations shall be deemed under common ownership or control if they are owned or controlled, directly or indirectly, by or on behalf of:

1. The same person;
2. Two (2) or more persons, one (1) of whom controls, is under common control with, or is controlled by the other; or
3. Members of the same family and their relatives, unless it is established that there is no direct or indirect business relationship between or among them.

(c) For purposes of this paragraph, "control" means:

ownership of fifty (50) percent or more of the voting shares of, or general partnership in, an entity; any relationship which gives one (1) person the ability in fact or law to direct what the other does; or any relationship which gives one (1) person express or implied authority to determine the manner in which coal at different sites will be mined, handled, sold or disposed of.

(3) Notwithstanding the provisions of subsections (2) of this section, the cabinet may determine, in accordance with the procedures applicable to requests for determination of exemption pursuant to Section 3 of this regulation, that two (2) or more surface coal mining operations shall not be deemed related if, considering the history and circumstances relating to the coal, its location, the operations at the sites in question, all related operations and all persons mentioned in subsection (2)(b) of this section, the cabinet concludes in writing that the operations are not of the type which SMCRA was intended to regulate and that there is no intention on the part of such operations or persons to evade the requirements of KRS Chapter 350 or Title 405, Chapters 7 through 24.

(4) The exemption provided by this section applies only to operations with an affected area of less than two (2) acres where coal is being extracted for commercial purposes and to surface coal mining operations within that affected area incidental to such operations.

Section 2. Coal Extraction Incidental to Government Financed Construction. (1) (a) Coal extraction which is an incidental part of government-financed construction is exempt from KRS Chapter 350 and Title 405, Chapters 7 through 24, except subsection (2) of this section shall apply.

(b) Any person who conducts or intends to conduct coal extraction which does not satisfy paragraph (a) of this subsection shall not proceed until a permit has been obtained from the cabinet.

(c) Reclamation of abandoned mined lands funded under Title IV of SMCRA, shall be deemed government-financed construction.

(2) Information to be maintained on site. Any person extracting coal incident to government-financed highway or other construction who extracts more than 250 tons of coal or affects more than two (2) acres shall maintain, on the site of the extraction operation and available for inspection, documents which show:

- (a) A description of the construction project;
- (b) The exact location of the construction, right-of-way or the boundaries of the area which will be directly affected by the construction; and
- (c) The government agency which is providing the financing and the kind and amount of public financing, including the percentage of the entire construction costs represented by the government financing.

Section 3. Exemptions. (1) The cabinet may on its own initiative and shall, within a reasonable time of a request from any person who intends to extract coal, make a written determination whether the operation is exempt from Title 405, Chapters 7 through 24. Where appropriate, exemptions shall be recognized for:

(a) The extraction of coal by a landowner for his or her own noncommercial use from land owned or leased by him or her. Noncommercial use does not include the extraction of coal by one (1) unit of an integrated company or other business or nonprofit entity which uses the coal in its own manufacturing or power plants;

(b) The extraction of or intent to extract 250 tons of coal

or less by any person by surface coal mining operations within twelve (12) successive calendar months;

(c) The extraction of coal as an incidental part of federal, state or local government-financed highway or other construction;

(d) Surface coal mining and reclamation operations of two (2) acres or less covered by Title 405, Chapter 26 ; and
[.]

(e) *The extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds (16 2/3) percent of the tonnage of minerals removed for purposes of commercial use or sale. OSM guidelines on implementing this exemption published at 49 CFR 19338 are hereby incorporated by reference. Copies may be obtained from the department. The cabinet may require such information from the applicant as the cabinet deems necessary to decide whether the extraction of coal is "incidental" to the extraction of other minerals and to decide whether the other mineral is being extracted for commercial use or sale. This may include, but is not limited to: information regarding the applicant's prior involvement in coal mining operations and mining operations for the other mineral; geologic information for the proposed mining area; mining and engineering plans for the excavation; evidence of the existence of a generally acknowledged regional, state, or national market for the mineral being sought; and a description of the commercial nature of the mineral. Coal extraction shall not be considered to be "incidental" unless removal of the coal seam is physically necessary for the extraction of the other mineral.*

(2) The cabinet shall give reasonable notice of the request to interested persons. Prior to the time a determination is made, any person may submit, and the cabinet shall consider, any written information relevant to the determination. A person requesting that an operation be declared exempt shall have the burden of establishing the exemption.

(3) If a written determination of exemption is reversed through subsequent administrative or judicial action, any person who, in good faith, has made a complete and accurate request for an exemption and relied upon the determination, shall not be cited for violations which occurred prior the date of the reversal.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: September 11, 1984

FILED WITH LRC: September 12, 1984 at 10:30 a.m.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET**
Department for Surface Mining
Reclamation and Enforcement
Amended After Hearing

405 KAR 10:035. Procedures, criteria and hearing requirements for cancellation of surety bonds after notice of non-compliance issued for failure to maintain contemporaneous reclamation.

RELATES TO: KRS 350.020, 350.060, 350.062, 350.064, 350.068, 350.151, 350.465

PURSUANT TO: KRS Chapter 13A, 350.020, 350.028, 350.060, 350.064, 350.151, 350.465

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part provides authority for the cabinet to approve the cancellation of surety bonds upon notice by the surety when a notice of non-compliance is issued for failure to maintain contemporaneous reclamation. This

regulation specifies the procedures and criteria for surety bond cancellation. This regulation also sets forth certain notice and hearing requirements relating to surety bond cancellation.

Section 1. Procedures for Request for and Notice of Surety Bond Cancellation. (1) Notice of intent to cancel.

(a) After the issuance, on or after July 13, 1984, of a notice of non-compliance for failure to maintain contemporaneous reclamation, the surety obligated on the performance bond for the permit or any increment thereof may send notice to the insured and to the department, of its intent to request cancellation of bond coverage on any area disturbed after thirty (30) days from the effective date of the surety's notice of intent to cancel, if the violation is not abated.

(b) The notice of intent to cancel shall be sent by certified mail, return receipt requested, to the insured, and a copy to the Director of the Division of Field Services, of the department. The effective date of the notice of intent to cancel shall be the date on which it is received by the insured or seven (7) days after mailing of the notice by certified mail, return receipt requested, to the address contained on the permit application and any other address known to the insurer, whichever occurs first.

(c) The notice of intent to cancel shall be signed by an officer, [or] director, or attorney-in-fact of the surety company and contain at a minimum the following:

1. Name of permittee;
2. Permit number and increment number, if applicable;
3. Name of surety;
4. Bond number and amount;
5. Date of issuance of notice of non-compliance and non-compliance number; [and]
6. Date of notice of intent to cancel; and
7. A copy of a power-of-attorney, if applicable.

(2) Notice of cancellation.

(a) If the surety elects to cancel pursuant to its notice of intent to cancel, the surety shall send a notice of cancellation to the insured by certified mail, return receipt requested. A copy of said notice shall also be sent to the Director of the Division of Field Services by certified mail, return receipt requested.

(b) The notice of cancellation shall be on a form specified by the cabinet and shall be sworn to by an officer, [or] director or attorney-in-fact of the surety, notarized and contain at a minimum the following:

1. Name of permittee and permit number;
2. Increment number, if applicable;
3. Name of surety and bond number;
4. Date of issuance of notice of non-compliance and non-compliance number;
5. Date the notice of intent to cancel was received by permittee;
6. Date of notice of cancellation;
7. A statement that the violation has not been abated within thirty (30) days of the effective date of the notice of intent to cancel;
8. A statement that the surety acknowledges that it will not be relieved of its liability for areas disturbed prior to the department's approval of cancellation; [and]
9. A request for the cabinet to approve the notice of cancellation; and
10. A copy of a power-of-attorney, if applicable.

(c) The notice of cancellation shall become effective upon the cabinet's approval.

(3) Cabinet approval of cancellation. Within thirty (30) days of receipt of the notice of cancellation, the cabinet

shall approve the surety's notice of cancellation in writing, only if the following conditions exist:

(a) The violation has not been abated by the permittee; and

(b) The surety has complied with the notice requirements of subsection (1) and (2) of this section; and

(c) The cabinet has:

1. Revoked the permit by order of the commissioner of the department; or

2. Deleted the area subject to the cancellation by order of the commissioner of the department; or

3. Accepted and approved a substitute bond submitted by the permittee.

Section 2. Procedures for Permit Revocation or Deletion of the Areas Subject to Cancellation. The cabinet shall by order delete the areas subject to bond cancellation or revoke the permit for the entire permit area within thirty (30) days from receipt of the surety's notice of cancellation, without prior hearing, unless an acceptable substitute bond has been submitted to the cabinet.

(1) The order shall be issued by the commissioner of the department, without prior hearing, based upon information available to the cabinet and the surety's notice of cancellation.

(2) The permittee may request a hearing on the order of the commissioner pursuant to KRS 224.081(2).

(a) A hearing requested pursuant to KRS 224.081(2) shall be requested within thirty (30) days of entry of the order of the commissioner.

(b) The order of the commissioner shall be affirmed unless the permittee can affirmatively establish that bond coverage was not cancelled and the violation was abated at the time of entry of the commissioner's order, or that substitute bond was approved by the cabinet.

(c) Within thirty (30) days after entry of the order of the commissioner, the order may be rescinded if the permittee can demonstrate that a substitute bond has been accepted and approved by the cabinet and the violations have been abated.

Section 3. Procedures for Bond Release or Forfeiture after Approval of Cancellation. (1) The cabinet shall not release any portion of a bond for a permit area or increment thereof, including but not limited to undisturbed acreage, after cancellation, unless and until all disturbed areas on the permit or increment have been reclaimed to the standards set forth in KRS Chapter 350 and the regulations promulgated pursuant thereto, or substitute bond has been filed and approved by the cabinet and the substitute surety has expressly assumed liability for all disturbed areas of the permit or increment.

(2) In the event of bond forfeiture the entire bond held by the cabinet shall be forfeited upon order of the secretary pursuant to KRS Chapter 350 and the regulations pursuant thereto.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: September 11, 1984

FILED WITH LRC: September 12, 1984 at 10:30 a.m.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Surface Mining
Reclamation and Enforcement
Amended After Hearing**

405 KAR 16:020. Contemporaneous reclamation.

RELATES TO: KRS 350.062, 350.093, 350.100, 350.110, 350.405, 350.410, 350.435, 350.450, 350.465

PURSUANT TO: KRS [13.082,] 350.028, 350.093, 350.100, 350.465

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to promulgate rules and regulations establishing performance standards for protection of people and property, land, water and other natural resources, and aesthetic values, during surface mining activities and for restoration and reclamation of surface areas affected by mining activities. This regulation sets forth requirements for keeping reclamation operations, including backfilling, grading, soil preparation and revegetation, contemporaneous with mining operations.

Section 1. General. Reclamation operations, including but not limited to, backfilling, grading, topsoil redistribution, liming, fertilizing, other soil preparation, seeding, planting, mulching and revegetation of all land that is disturbed by surface mining activities, shall occur as contemporaneously as practicable with mining operations and in accordance with this regulation.

Section 2. Backfilling and Grading. Backfilling and grading operations shall proceed as concurrently with mining operations as possible and in accordance with the requirements of this section, except that specific time and distance criteria set forth in the approved plan for backfilling and grading shall take precedence over corresponding criteria in this regulation. The approved backfilling and grading plan may specify time and distance criteria less restrictive than those set forth in this regulation when the permittee has demonstrated through detailed written analysis in the permit application that such other criteria are essential to the proposed mining and reclamation operations, and the cabinet has determined that use of such criteria will not likely cause adverse environmental impacts. As used in this section, "initial surface disturbance" means the initial excavation for the purpose of removal of topsoil or overburden.

(1) Area mining. Backfilling and grading to approximate original contour on a disturbed area shall be completed within 180 calendar days following the removal of coal from that area, and shall not be more than four (4) spoil ridges behind the pit being mined, with the spoil from the pit being mined being considered the first spoil ridge.

(2) Auger mining. Coal removal in a given location shall be completed within sixty (60) calendar days after the initial surface disturbance at that location. Auger holes shall be sealed as required by 405 KAR 20:030. Backfilling and grading to approximate original contour shall follow coal removal by not more than sixty (60) days and by not more than 1500 linear feet.

(3) Contour mining. Coal removal in a given location shall be completed within sixty (60) calendar days after the initial surface disturbance at that location. Backfilling and grading to approximate original contour shall follow coal removal by not more than sixty (60) calendar days and by not more than 1500 linear feet.

(4) Multiple-seam contour mining. When overlapping multiple cuts producing a benched highwall are made to

remove more than one (1) coal seam at a given location, backfilling and grading at that location shall be completed within sixty (60) calendar days after removal of the last coal seam at that location and shall follow the advancing cut of the last coal seam by not more than 1500 feet. Removal of all coal seams shall proceed as concurrently as possible and in a timely manner, in order to minimize the time period in which disturbed areas are exposed prior to reclamation.

(5) Combined contour mining and auger mining. Coal removal by contour mining at a given location shall be completed within the time frame specified in subsection (3) or (4) of this section as appropriate. Auger mining at a given location shall be completed within thirty (30) calendar days after coal removal by contour mining at that location. Sealing of auger holes and backfilling and grading shall then be completed as required in subsection (2) of this section.

(6) Mountaintop removal. Backfilling and grading on a disturbed area shall be completed within 180 calendar days following the removal of coal from that area.

(7) All final backfilling and grading shall be completed before equipment necessary for backfilling and grading is removed from the site.

Section 3. Soil Preparation and Revegetation. (1) When backfilling and grading have been completed on an area, the required topsoil redistribution, liming, fertilizing, other soil preparation, seeding, planting, and mulching of that area shall be completed as soon as possible in a manner consistent with the approved plans for topsoil handling and revegetation and in accordance with 405 KAR 16:200, Section 3.

(2) The time allowed for soil preparation and revegetation pursuant to subsection (1) may exceed thirty (30) calendar days only when specifically authorized in the approved plans for topsoil handling and revegetation or when authorized pursuant to Sections 4 or 5 of this regulation.

Section 4. Deferments. (1) The cabinet [department] may allow a permittee to defer the time criteria for coal removal and contemporaneous reclamation requirements on specified areas if the permittee can demonstrate that said deferment is necessary to address at least one (1) of the following:

(a) Adverse condition including weather, labor, and other conditions clearly beyond the permittee's control.

(b) Combined surface and underground mining activities subject to the provisions of 405 KAR 8:050, Section 7 and 405 KAR 20:020[, and other mining operations pursuant to KRS 350.080].

(c) Coal marketing problems.

(2) Application for a deferment pursuant to this section shall be in the form prescribed by the cabinet. Approval of the deferment request shall be made in writing. The approval shall state that the deferment is justified and that no environmental damage will occur during the period of deferment.

(a) Application for a deferment pursuant to paragraph (a) of subsection (1) for adverse conditions shall be made in writing and shall include documentation of the adverse conditions beyond the operator's control and demonstration of impossibility of conducting coal removal and contemporaneous reclamation in a timely manner due to those conditions. The application shall be filed at the appropriate regional office of the department. Upon a successful demonstration that such conditions exist, the regional administrator may grant a reclamation deferment

for a maximum of thirty (30) days, on a form provided by the department. At least seven (7) days prior to the expiration of the deferment, the permittee may request, in writing, an additional extension, again stating the reason for the request and providing any appropriate additional documentation. The regional administrator may renew the original extension once upon such request, such renewal not to exceed thirty (30) days. Any need for additional time must be demonstrated to the Division of Field Services in Frankfort by written request. Such request must initially be submitted to the regional office at least two (2) weeks prior to the expiration of the renewed deferment. Upon recommendation of the regional administrator, the director of the Division of Field Services shall issue his decision on or before expiration of the deferment.

(b) Application for a deferment pursuant to paragraph (b) of subsection (1) for combined surface and underground mining shall be made according to 405 KAR 8:050, Section 7.

(c) Application for a deferment pursuant to paragraph (c) of subsection (1) for coal marketing problems shall be made according to Section 5 of this regulation.

(3) The applicant has the burden of establishing the need for a deferment. The applicant must demonstrate that reclamation on the site is contemporaneous as of the date of the request for deferment and that distance requirements for contemporaneous reclamation will be met during the period of deferment. The permittee shall continue to comply with the time limits of the coal removal and contemporaneous reclamation requirements until the deferment is issued.

(4) [(3)] Reclamation deferments may be approved for a period reasonably related to the specified conditions justifying the deferment. The deferral shall not extend beyond the expiration date of the permit and in no event shall the aggregate deferral period exceed thirty (30) months, except where approved combined mining is being carried out under subsection (1)(b) of this section.

(5) [(4)] The cabinet shall periodically reexamine and update the amount of the bond on the permit area so that the amount of the bond is sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture.

Section 5. Additional Requirements for Deferments for Coal Marketing Problems. Upon written application conforming to the requirements of the statutes and regulations, the cabinet may grant a deferment of coal removal and contemporaneous reclamation for a period not to exceed thirty (30) months pursuant to KRS 350.093.

(1) Application requirements.

(a) An applicant for a deferment of coal removal and contemporaneous reclamation shall submit an application on a form specified by the cabinet. An application shall contain at least the following:

1. A demonstration of the need for the deferment, including documentation of the coal marketing problem.

2. A plan consisting of a detailed narrative description of the method by which the applicant shall conform to each of the performance standards specified in subsection (2) of this section (hereinafter "plan").

3. A detailed schedule for implementation of each of the performance standards of subsection (2) of this section (hereinafter "schedule"), which may not extend beyond thirty (30) days from the issuance by the cabinet of a deferment from coal removal and contemporaneous reclamation.

4. An itemized estimate of the total cost of reclamation

of the area proposed for deferment. The estimate shall, at a minimum, include calculations and supporting data demonstrating the volume of spoil necessary for backfilling and grading all open pits and highwalls, the cost of backfilling those pits and highwalls, the cost of final grading and revegetation of the entire disturbed area, and the cost of moving necessary reclamation equipment to the job site.

5. Written consent of the surety for the deferment where the permit area or increment is covered by a surety bond.

(b) The applicant shall place an advertisement in the newspaper of largest bona fide circulation in each county in which the permit is located. The advertisement shall be published within ten (10) days after the date the application is submitted to the cabinet and shall contain, at a minimum, the location of the area for which coal removal and contemporaneous reclamation are proposed to be deferred, the reason for which the deferment is sought, and the duration of the requested deferment. The advertisement shall also indicate that the deferment shall not exceed six (6) months initially, but may be renewed for additional six (6) months periods up to a maximum of thirty (30) months. The applicant shall submit proof of the advertisement to the cabinet within fifteen (15) days after application for the deferment. The application shall not be deemed complete until such proof is submitted.

(c) The applicant shall also notify, in writing, the owners of the surface of the permit area and adjacent areas as listed on the permit application. The applicant shall provide proof of such notice to the cabinet. The application shall not be deemed complete until such proof is submitted. Within five (5) days after receipt of a complete application, the cabinet shall notify those other persons, if any, who it determines to have an interest which is or may be adversely affected by the proposed deferment.

(d) Any person with an interest which is or may be adversely affected may file written comments and objections to the application for a deferment within ten (10) days after receipt of the written notice or publication of the newspaper notice, whichever is later.

(e) Upon receipt of the application, the cabinet shall examine the data and calculations submitted pursuant to subsection (1)(a)4 of this section and shall cause an inspection of the area subject to the proposed deferment to be made by an authorized agent of the cabinet. Based upon the data supplied and the inspection, the Division of Permits of the cabinet shall determine whether the existing bond for the entire permit or increment is sufficient for the cabinet to completely reclaim the entire disturbed area of the permit or increment at the expiration of the deferment. If the existing bond is insufficient, then the cabinet shall require, prior to approving the deferment, that the applicant file such additional bond as is determined by the cabinet to be sufficient for the cabinet to completely reclaim the disturbed area.

(f) The cabinet shall consider the application, any other submittals from the applicant and any comments received from the public, and shall render a final decision on the application within thirty (30) days of receipt of the complete application. If the cabinet determines that the applicant has satisfied the requirements for a deferment from coal removal and contemporaneous reclamation contained in KRS 350.093(2) and in this regulation, then the cabinet shall grant a deferment to the applicant for a period not to exceed six (6) months. Upon approval by the cabinet, the plan and schedule proposed by the applicant and any conditions imposed on the approval by the cabinet shall become conditions of the permit.

(2) Performance standards. Each permittee subject to a deferment shall, at a minimum:

(a) Complete final reclamation including backfilling, grading, topsoiling and revegetation on all disturbed areas; provided, however, that those areas of the pit, work area, excess spoil disposal areas, topsoil storage areas, and access road necessary to allow resumption of coal extraction without redisturbance of finally reclaimed areas may be exempted from this requirement for the duration of the deferment. In order to meet this requirement, the permittee may be required to reclaim closer to the pit than the distance limits specified in the contemporaneous reclamation regulation.

(b) Mulch or establish quick growing temporary vegetation, or both, on all areas exempted under paragraph (a) of this subsection (except for haul road surfaces) such as excess spoil disposal areas, work areas, topsoil storage areas, and all other areas which have been cleared of vegetation, to the extent technically practicable to achieve erosion control or stability as determined by the cabinet. The permittee shall maintain the cover on all such areas to minimize erosion throughout the deferment period.

(c) Acid- or toxic-producing spoil shall not be left exposed but shall be covered or treated in accordance with Section 3 of 405 KAR 16:190 and 405 KAR 18:190.

(d) Supplemental sediment control measures such as straw dikes and fabric filter fences may be required by the cabinet on a case-by-case basis to minimize additional contributions of sediment to the stream flow or runoff.

(e) Where accumulation of water in the pit may adversely impact the hydrologic balance, public health and safety or the environment, the cabinet shall require such measures as are necessary to minimize adverse impacts. These may include but are not limited to such measures as:

1. Providing drainage from the pit to prevent breaching of the undisturbed berm.

2. Pumping the water to a treatment facility when accumulation of acid or toxic water in the pit may result in contamination of the ground water.

(3) Deferment implementation.

(a) The permittee shall implement the terms of the approved plan within the time schedule approved by the cabinet and consistent with this regulation.

(b) Except as expressly modified by the approved plan, schedule, and conditions in the deferment approval, the permittee shall comply with all of the requirements of the regulations and the permit conditions which would apply to the operation had the deferment not been granted. These requirements include but are not limited to the following:

1. All discharges of water from the permitted area shall be continually treated to meet the applicable effluent limitations.

2. All water quality monitoring and reporting otherwise required shall continue.

3. All diversion ditches, sedimentation ponds, haul road drainage ditches and culverts, etc., shall be rehabilitated as necessary and continually maintained to comply with the applicable performance standards and with the designs approved in the permit. Sediment shall be removed from the sedimentation ponds when the design sediment storage volume has filled with sediment.

4. Haul road maintenance, such as grading, replacement of durable surface material, and cleaning out of ditches and culverts, shall be continually performed as necessary to comply with the performance standards and the approved permit and to minimize erosion.

(4) Expiration and renewal.

(a) A deferment from coal removal and contemporaneous reclamation shall expire six (6) months after the date of issuance of the deferment by the cabinet. A deferment from coal removal and contemporaneous reclamation may be renewed upon written application for a period of no more than six (6) months upon a showing of need for additional time, and upon a showing that the area subject to deferment is in compliance with the requirements of the regulations, the permit, and the terms of the deferment. The cabinet shall inspect the area subject to deferment prior to approval of any renewal.

(b) Regardless of the reasons for the deferment, no deferments or subsequent renewals shall be granted beyond the maximum aggregate period of thirty (30) months for any permit area, including any deferment periods issued for adverse conditions. At the expiration of the thirty (30) month aggregate period, a permittee shall not be granted any additional deferments or renewals unless the permittee can demonstrate that it has conducted twelve (12) months of continuous active coal removal from the permit area after the expiration of the thirty (30) month aggregate period, it has completed reclamation of all previously deferred areas in the permit area, and it otherwise meets all requirements for a deferment. For the purpose of this paragraph, "completed reclamation" means completion of reclamation phase I as defined by 405 KAR 10:040, Section 2(4)(a).

(c) The deferment shall terminate upon resumption of coal extraction activities on the permit area subject to deferment.

(5) Enforcement and revocation.

(a) The cabinet shall inspect the area subject to deferment at least once each month on the average, during the routine partial and complete inspections made of the permit area. Upon each inspection, the inspector shall note under the "comments" section of the Mine Inspection Report form whether the area subject to deferment meets the conditions of the deferment approval, including the plan and schedule.

(b) In the event that the inspection shows that a violation of the conditions of the deferment or of the regulations or of the conditions of the permit is occurring on the area subject to deferment, or is casually related to the area subject to deferment, then the cabinet shall issue a notice of noncompliance and order for remedial measures or order for cessation and immediate compliance in accordance with Title 405, Chapter 12. If the permittee fails to abate the violation within the time for abatement, or any extension thereof, established by the cabinet, then the cabinet shall revoke the deferment in addition to other enforcement actions required by Title 405, Chapters 7 through 24.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: September 11, 1984

FILED WITH LRC: September 12, 1984 at 10:30 a.m.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Carriers
Amended After Hearing

601 KAR 9:074. Kentucky highway use license, records and taxes.

RELATES TO: KRS [Chapter] 138.655 to 138.725

PURSUANT TO: KRS [13.082.] 138.725

NECESSITY AND FUNCTION: KRS 138.725 makes

the Department of Vehicle Regulation responsible for the application of the Kentucky motor carrier fuel use tax and weight distance tax to motor carriers covered by KRS 138.655 to 138.725. This regulation provides procedures for licensees to follow in order to comply with the statutes.

Section 1. Application for Kentucky Highway Use License. Every motor carrier as defined in KRS 138.655(5) shall apply for and obtain on a department approved form a license before using or continuing to use the public highways in the state. The department shall issue a license number to each motor carrier, and the carrier shall cause said license number to be displayed on a motor vehicle identification card issued it by the department. The card shall be carried in each vehicle operated by the carrier at all times.

Section 2. Bonds-Cash Deposit. (1) Every motor carrier and heavy equipment motor carrier, pursuant to the provisions of KRS 138.655 and 138.670 shall file with the department at the time of application for a license a corporate bond, cash bond, or security approved by the department. The applicant for the license shall be the principal obligor and the Commonwealth of Kentucky shall be the obligee. The bond will be conditioned as required in KRS 138.670, and the department shall administer the bond as provided in KRS 138.670.

(2) In addition to the bond imposed in subsection (1) of this section, [every business engaged in mining, processing, transporting or selling coal in excess of the established weight laws pursuant to a cooperative agreement with the Transportation Cabinet, or a certified transportation plan or subject to the ton tax provided by law shall file with the cabinet upon request a corporate bond, cash bond, or security approved by the cabinet. The minimum amount of the bond shall be \$5,000 and the maximum amount shall be one (1) year's liability for the taxes imposed.] if it appears that a person, firm, or corporation, which has been issued a transportation plan involving the reporting and payment of tonnage taxes, has no assets in Kentucky, or has been involved in bankruptcy proceedings within seven (7) years past, or, is of doubtful financial stability, the department may require such person, firm, or corporation, to post a corporate surety bond, with a surety authorized to transact business in Kentucky, or a cash bond, equal to one (1) quarter's anticipated tonnage tax liability, as a condition precedent to the implementation and conduct of operations under the transportation plan issued to such person, firm, or corporation. The bond shall be in such form and amount as the cabinet shall prescribe and the cabinet shall administer the bond as provided in KRS 138.670.

Section 3. Registration for Highway Use [Weight Distance] Tax. (1) For the purpose of this section registration shall mean the registration of the licensee for the purpose of a tax imposed by KRS 138.660 and shall be required of all motor carriers as defined in KRS 138.655(5). The current registration period shall be deemed that quarterly period for which the tax is due under KRS 138.660 or required to be reported on the quarterly return. The applicant for the license shall apply to the department for a motor vehicle identification card on forms prescribed and furnished by the department. The completion by the applicant and submittal to the department for validation shall be necessary prior to the authority of the applicant to operate a motor vehicle on the public highways of Kentucky. A motor carrier identification card shall be issued which contains the name and address of the owner or operator, the identification of the vehicle, and such other

information as may be requested, including, but without limitation, the KYU license number issued to the applicant for the use of the public highways of Kentucky. The identification card shall show the vehicle combined license weight or the actual combined gross weight of the vehicle and any towed unit when operated on the public highways of the state during the current registration period as defined hereinabove.

(2) Definitions.

(a) "Combined license weight" shall mean the declared combined maximum gross weight of the vehicle and any towed unit for the registration purposes for the current registration period as defined hereinabove; or the highest actual combined gross weight of the vehicle and any towed unit when operated on the public highways of the state during the current registration period as defined herein.

(b) "Declared gross weight" shall mean the same as paragraph (a) of this subsection.

(c) "Gross weight" shall mean the unloaded weight of the vehicle plus the maximum load to be carried by it on the highways of the Commonwealth of Kentucky.

(3) The identification card shall be displayed in the cab of the vehicle at all times. Failure to display the identification card shall constitute a violation of KRS 138.665.

Section 4. Communications, Business Names and License Address. All licensees must immediately report any change in principal business address, legal status or business name to the department. All motor carrier operations must be conducted in the name in which the license and the identification card is issued or the duly assumed business name of the licensee, as it appears on the license. All licensees are required to use the name utilized in the application for the license in all documents relating to their operations and in all correspondence with the department. All correspondence with the department shall be addressed as follows: Kentucky Department of Vehicle Regulation, *Division of Motor Carriers* [Fuel and Roadway Taxation Branch], Post Office Box 2007, Frankfort, Kentucky 40602.

Section 5. Instruments Filed Become Permanent Records. All bonds filed with the department as required by statute are permanent records and cannot be returned to licensee or removed from the custody of the department as long as the licensee is subject to the Kentucky Statutes.

Section 6. Kentucky Highway Use License for Leased Vehicles. (1) Any person leasing or renting a commercial motor vehicle to a lessee who is engaged in private carriage, where the operator of such vehicle is required to have a Kentucky Highway Use License may obtain the license by making application to the department and complying with the appropriate rules and regulations. The licensee shall entitle the lessee to operate the leased or rented vehicle under the lessor's license.

(2) The lease shall be carried in the vehicle and the required cab card shall be in the lessor's name and the lessor shall make the required quarterly reports and pay all taxes which may become due by virtue of the operation of the motor vehicle.

(3) A motor vehicle which is leased to a certificated carrier will be required to have the Kentucky Highway Use License and the lessee shall be responsible for the payment of any tax which may become due.

(4) A lessor of motor vehicle equipment who makes an application for a license under this section shall furnish the department a copy of the standard lease or rental agree-

ment as well as the address of the place of business where the lessor's records are maintained. A current list of all lessees who lease equipment from the lessor and who will use the lessor's Kentucky Highway Use License shall be filed with the department. This list shall contain the name of the lessee, the lessee's address, the number of vehicles leased to each lessee and other pertinent information which the department may require. The list required herein shall be updated and kept current on a semi-annual basis by the lessor.

Section 7. Authorized Deductions on Quarterly Returns. Every person licensed as a motor carrier may deduct on his quarterly tax return the amount of tax paid on fuel at the time of purchase, provided the purchase is made in Kentucky and the Kentucky motor fuel tax has been paid. A valid receipt must be obtained as evidence of purchase from the person making the sale or delivery.

(1) The valid receipt is one (1) which:

(a) The purchase receipt shall be the original prepared by a station or vendor located in the state of Kentucky and shall have an imprinted Kentucky address. Receipts that have an imprinted Kentucky address, but include other station locations outside of Kentucky are invalid.

(b) The following is included:

1. Name and station location of the vendor;
2. Date of purchase;
3. Number of gallons;
4. Type of fuel purchased;
5. Company unit number of vehicle or registration number of units; and
6. Licensee's name.

(c) The name and address of the vendor shall be preprinted or imprinted, which includes, but is not restricted to, credit card machines. Station receipts that are identified only by impressed rubber stamp markers or handwritten are not valid.

(2) *Other documents such as computer records, ledgers, and journals may be accepted as evidence of valid fuel purchase receipts, if such records contain the same information as required in subsection (1) of this section, provided such records meet acceptable auditing tests.*

(3) [(2)] Bulk or storage purchasers of fuel shall maintain a withdrawal or disbursement record when such fuel is used in taxable highway or road units. This record shall be kept on all units fueling from this tank showing the unit fueled, gallons withdrawn, and the date of withdrawal. Tax on bulk purchases shall be paid at the time of purchase in accordance with KRS 138.220 and 234.320. If a motor carrier uses tax free bulk storage to fuel taxable units (highway units), tax will be levied on total fuel purchased for bulk storage.

(a) Any use of fuel from a tax free storage tank without adequate records to prove on-highway use shall be taxable. Approved location of tax free storage shall be issued by the Revenue Cabinet before tax free fuel is purchased.

(b) Credit for fuel purchase receipts other than the taxable units shall not be allowed.

(4) [(3)] In instances where fuel is purchased by trip leased units and the lessee is responsible for the Kentucky highway tax, all receipts shall be made in the name of the lessee. Receipts made out in the name other than the person or company responsible for the fuel tax shall be invalid.

Section 8. Cancellation of License. (1) If a motor carrier fails to comply with the terms of KRS 138.655 to 138.725, or these regulations, its Kentucky Highway Use

Tax License may be cancelled. Reasons for cancellation include, but are not limited to, the following:

(a) Failure to file tax return thirty (30) days after the due date. The licensee will be mailed a second notice or reminder and be given fifteen (15) days to file the return. If the licensee fails to comply with the second notice, the license will be subject to cancellation.

(b) Failure to pay additional taxes assessed by the department. To be reinstated after cancellation of license, the carrier must prove to the department that sufficient records are being and will be maintained to file accurate Kentucky Highway Use Tax Returns.

(c) Failure by a licensee to produce such records after written demand may result in cancellation of the license and any other penalties applicable by law. Each succeeding day shall constitute a separate violation until the records are produced at the place stated in the demand.

Section 9. Procedure upon Cancellation of License. (1) Upon cancellation of Kentucky Highway Use License in accordance with the provisions of KRS 138.675 and after notice to the carrier by mailing the same to the address on file in the department, the carrier shall immediately return to the department the license and all cab cards issued to such carrier.

(2) Failure to return the license and cards or the operation of a motor vehicle displaying a cab card after notice of revocation of the highway use license shown thereon, shall be a violation of this regulation.

Section 10. Coal Shippers License and Tax Status Changes of All Motor Carriers. (1) All persons liable or responsible for payment of ton tax or payments due to cooperative agreements and transporting coal over the state maintained highways system by motor vehicles exceeding the gross weights or gross axle weights prescribed by the Secretary of Transportation pursuant to KRS 189.222 shall obtain an approved tax reporting license from the Department of Vehicle Regulation. Prior to the issuance of the tax reporting license, the licensee must obtain a certified transportation plan from the Department of Vehicle Regulation in accordance with 601 KAR 35:020. The Department shall assign each taxpayer a license number.

(2) Licensees referenced in subsection (1) of this section that have an approved cooperative agreement shall pay their tax in accordance with the terms of the cooperative agreement.

(3) Licensees referenced in subsection (1) of this section that do not have a cooperative agreement shall report and pay their coal ton tax as follows:

(a) The coal ton tax shall be reported on the requisite forms as prescribed in the manual published by the Transportation Cabinet titled, "Forms Applicable to Coal Transportation," adopted July 13, 1984, a copy of which is on file with the Legislative Research Commission.

(b) The coal ton tax shall be reported and paid monthly.

(c) The coal ton tax returns are due within twenty (20) days following the close of each monthly period.

(4) The exempt and/or non-exempt status of each vehicle in regard to Kentucky motor fuel surtax or weight distance tax may be changed only once during each quarter, (January 1 through March 31, April 1 through June 30, July 1 through September 30, October 1 through December 31). A tax liability shall not change because of a status change, until the first day of the next succeeding quarter after the status is changed. The change from non-exempt status to exempt status requires that an application be filed with the Transportation Cabinet.

Section 11. [10.] Tax Liability and Protest Procedures. (1) The licensee will be mailed a tax statement, found as the result of an audit or found as the result of an examination of licensee's tax return. The licensee has thirty (30) days to pay or protest to the department per KRS 138.110 in writing any assessment or tax liability imposed by the department. A protest must be accompanied by a supporting statement identifying specific adjustments being protested and setting forth the reasons upon which the protest is being made.

(2) If the licensee so desires, he may, within thirty (30) days, protest directly to the Kentucky Board of Tax Appeals.

(3) The department will acknowledge receipt of the protest and if protest is acceptable, a tax conference will be set between the department and licensee within sixty (60) days of the protest. The department will notify the licensee within thirty (30) days its decision to deny or accept the reasons of the protest. If denied, the licensee may protest to the Kentucky Board of Tax Appeals.

(4) If the licensee does not acknowledge the tax statement within thirty (30) days, a reminder will be sent to licensee demanding payment within fifteen (15) days. If within fifteen (15) days, the taxes have not been remitted to the department, a demand will be made against the licensee's surety bond. Any balance of unpaid taxes will be submitted to the department's legal section for collection.

Section 12. [11.] Penalties. In addition to any other penalties which may be imposed under KRS 138.990 and any other applicable laws, the licensee shall be subject to the civil penalties provided for in KRS 138.775.

Section 13. [12.] Inspection. Any highway enforcement officer or state police officer may inspect the vehicle identification card, license registration, driver's log, lease, trip sheet or shipping document to determine if the vehicle is qualified to operate on the highways of the state of Kentucky. The law enforcement officer may also weigh vehicles to determine if the gross weight conforms to the licensed weight on the vehicle identification card.

Section 14. [13.] Records Disposition. The department will retain the active file of KYU tax returns for at least five (5) years. An inactive KYU license will be retained two (2) years after cancellation.

Section 15. [14.] Reinstatement of License. (1) If the carrier desires to be reinstated after cancellation, the carrier must:

(a) Prove to the department that sufficient records are being and will be maintained to file accurate Kentucky Highway Use Tax returns.

(b) Submit quarterly returns for all missed periods.

(c) Pay all taxes for missed returns plus penalties and interest.

Section 16. [15.] Licensee taxpayers, for purposes of ease in tax reporting compliance, and department administration and audit convenience, may, upon written request to the department and receipt of written permission from the department, report miles operated upon Kentucky highways on the basis of the current Household Goods Bureau mileage guide, and supplements thereto, in lieu of reporting on the basis of actual miles operated, provided, however, that such mileages are reported in respect to movements between the points and over the routes actually operated, and provided that such mileages would not result in a consistent understatement of actual miles operated on Kentucky highways.

Section 17. Maintenance of Records. (1) Licensees reporting and paying taxes under the cooperative agreement, certified transportation plan, or ton tax provision shall keep and maintain records of all coal shipments over the state maintained public highways.

(2) Each licensee shall also maintain weight tickets, bona fide third party documents or other documents to accurately verify tonnage that will reflect the true tonnage transported over said highways and the distance that such tonnage was transported over such highway.

(3) The weight ticket or third party document shall include but not be limited to the following:

(a) Name and identification number of the mine owner, severer, processor, broker or shipper.

(b) Name and KYU number of person transporting coal.

(c) Transporter's assigned unit vehicle number.

(d) Points of origin and destination.

(4) All records shall be maintained for five (5) years for audit and tax purposes.

(5) Other documents such as computer records, ledgers, and journals may be accepted as evidence of valid fuel purchase receipts, if such records contain the same information as required in subsection (1) of this section, provided such records meet acceptable auditing tests.

FLOYD G. POORE, Secretary

APPROVED BY AGENCY: September 5, 1984

FILED WITH LRC: September 5, 1984 at 3 p.m.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Driver Licensing
Amended After Hearing

601 KAR 13:050. Alcohol Driver Education [or Treatment] Program.

RELATES TO: KRS 189A.070, 189.160

PURSUANT TO: KRS 186.400, 186.560

NECESSITY AND FUNCTION: Senate Bill 20 allows a person convicted the first time of driving under the influence of alcohol or any substance which may impair their driving ability (DUI) to have the driver license revocation period shortened from six (6) months to thirty (30) days by successfully completing an alcohol driver education [or substance abuse] program. KRS 189A.070 allows the Transportation Cabinet to set standards for the course and curriculum of the [driver improvement program or] alcohol driver [and substance abuse] education [or treatment] program pursuant to KRS 186.560. This regulation is necessary to establish standards and criteria for such alcohol driver education [or substance abuse] programs. However, this regulation does not apply to any services provided under KRS Chapters 210, 216B, or 222.

Section 1. Definition. "Course—alcohol driver education [or treatment] program" means a course, as defined in 601 KAR 13:030, a regulation promulgated [approved] pursuant to KRS 186.560 and 189A.070 by the Transportation Cabinet that shall be open to any licensed driver of this state who has been convicted of a first offense of DUI, but does not include services under KRS Chapters 210, 216B, or 222.

Section 2. No person shall offer, conduct or engage in the business of offering or conducting an alcohol driver education [or substance abuse] program pursuant to KRS

186.560 and 189A.070, which purports to be an alcohol driver education program, without obtaining the prior written approval of the Transportation Cabinet pursuant to the provisions of this administrative regulation. A person shall file an application for approval of a course with the Transportation Cabinet; [and] the application shall be on the form furnished by the Transportation Cabinet and shall contain the information required by the Transportation Cabinet. Said application forms can be obtained from the Transportation Cabinet, Division of Driver Licensing, State Office Building, 2nd Floor, Frankfort, Kentucky 40622.

Section 3. The completed application shall be accompanied by the following:

(1) A copy of the proposed course materials, curriculum, and promotional documents;

(2) A copy of the procedures and instruments used in making an assessment of the defendant's problem;

(3) [(2)] The name, address, and social security number of the instructors who shall conduct the course; [and]

(4) [(3)] A copy of the manual and course materials for the instructor's preparation course; and

(5) A statement certifying that the fee schedule submitted with the application reflects the actual costs.

Section 4. In the event the course application is approved, the course approval shall be valid until cancelled. Any person who has obtained approval for a course shall comply with the following requirements:

(1) Apply to the Transportation Cabinet for approval if there are any proposed additions or deletions to a previously approved course or its curriculum;

(2) Perform all necessary administrative functions in connection with the course;

(3) Obtain approval from the Transportation Cabinet of the form of the certificate to be issued upon course completion as specified in subsection (4) of this section;

(4) Provide each participant, satisfactorily completing the course, with an approved certificate of course completion;

(5) Maintain records which indicate the name, address, and social security number and the date of the course and if the course was satisfactorily completed for those individuals who have attended the course within the previous five (5) years;

(6) Provide and train instructors to conduct courses;

(7) Conduct the course in accordance with the description and curriculum approved by the Transportation Cabinet;

(8) Provide the Transportation Cabinet with a schedule of class dates, times, and locations; and

(9) Authorize and permit the Transportation Cabinet to audit the records of the approved course and to monitor and evaluate any and all portions of the course including but not limited to the classroom facility, the use of the instructional materials, and the actual presentation of the course, and qualification of instructors.

Section 5. No course shall be approved unless the course shall have a minimum of nine (9) hours of classroom instruction; and the curriculum of the course shall at least include but shall not be limited to the following subject matters:

(1) The alcohol driving offender in the Commonwealth of Kentucky;

(2) Recognizing the alcohol [or substance abuse] problem related to traffic safety;

(3) Assuming the responsibility of dealing with the problem;

(4) Alternative approaches and support to resolving the problem;

(5) Personal strategy for sustaining commitment to the alcohol driver education program;

(6) Maximizing personal influence by working with potential *DUI* offenders; and

(7) Determining risk factors created by a variety of psychological, social, and physical factors that can facilitate or inhibit the functions required in driving, including but not limited to:

(a) The effects and compensatory measures concerning the relationships between alcohol, drugs, or medication and driving performances;

(b) The negative stresses and compensatory measures associated with physical, mental, and social conditions as they relate to driver performances.

Section 6. Upon written notice the Transportation Cabinet may rescind and cancel the certification of approval of any *person* or agency conducting the course for good cause, including but not limited to any of the following reasons:

(1) Deletions or additions have been made to the curriculum which have not been specifically approved by the Transportation Cabinet;

(2) The agency or any instructor has failed to comply with any of the provisions of this administrative regulation.

Section 7. Any agency or person submitting information to the Transportation Cabinet certifying that an individual has enrolled, completed, or failed to complete a program which is to be given credit as provided for in KRS 186.560(7), shall submit such information on the forms as required by the Transportation Cabinet.

FLOYD G. POORE, Secretary

APPROVED BY AGENCY September 4, 1984

FILED WITH LRC: September 5, 1984 at 3 p.m.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Vehicle Licensing
Amended After Hearing

601 KAR 35:020. Transportation plan, coal cooperative agreements.

RELATES TO: KRS 42.455(8), 177.972, 177.976, 177.979, 186.057, 350.060(11), 351.175(6),

PURSUANT TO: KRS 42.455(8), 174.080, 177.972, 177.976, 177.977, 177.979, 186.057

NECESSITY AND FUNCTION: KRS 351.175(6) and KRS 350.060(11) require that mine operators submit with their application for mining licenses a transportation plan certified by the Department of Vehicle Regulation. KRS 42.455(8) and KRS 177.972 designate the Transportation Cabinet as the agency responsible to the identification of public highways, roads, streets, and bridges that comprise the official coal haul highway system. KRS 177.976 allows for the operation of vehicles transporting coal in excess of the weights prescribed in KRS 189.222 and allows the Commissioner of Vehicle Regulation to restrict or regulate traffic on the coal transportation system in such a manner as is reasonably necessary to promote the safety and convenience of the traveling public. This regulation is adopted to provide for and regulate such hauling, to provide for the

gathering of pertinent information from all coal shippers or owners regarding the movement of coal, and to specify the procedures to be used to obtain a certified transportation plan.

Section 1. Application for Transportation Plan. Every person subject to KRS 351.175, 350.060, 42.455 and 177.972 shall apply to the Department of Vehicle Regulation for a certified transportation route and gross weights for each vehicle type whereby the applicant proposes to transport materials. Applications may be obtained from any highway district office or the Transportation Cabinet, Department of Vehicle Regulation, 1001 State Office Building, Frankfort, Kentucky 40622.

Section 2. Form of Application. The application form prescribed by the Department of Vehicle Regulation shall require such information as is necessary to determine the adequacy of the roads, streets, and bridges to carry out weights requested by the applicant and to adequately identify the applicant. The application must be accompanied by a map designating the desired route. Copies of maps may be obtained from the Division of Planning or from the district highway office of the district in which the roads, streets and bridges are located. The specified form is [contained in the manual titled, "Forms Applicable to Coal Transportation," adopted as 601 KAR 35:010 on July 13, 1984, a copy of which is on file with the Legislative Research Commission and] available from the Transportation Cabinet, Department of Vehicle Regulation, 1001 State Office Building, Frankfort, Kentucky 40622 and from any district highway office.

Section 3. Filing of the Application. (1) The original and three copies of the application for a certified transportation plan shall be submitted to the Department of Vehicle Regulation, 1001 State Office Building, Frankfort, Kentucky 40622. Said transportation plan, upon receipt by the Department of Vehicle Regulation, shall be forwarded to the Department of Highways for the evaluation of all roads, streets and bridges on the proposed route at the requested weights. A separate application must be filed for each origin and destination between which materials are to be transported.

(2) Any transportation plan application filed with the department for extended weight operations, which embrace operations over roads, streets, or bridges not a part of the state maintained system, shall be accompanied by a written statement signed by the chief executive officer of the local governing body having jurisdiction over such roads, streets, or bridges. This statement shall indicate that such local governing body is apprised of the transportation plan application and will undertake to enter into an agreement with the applicant. Further, such statement shall indicate proposed operations by the applicant to transport coal at those extended weights corresponding with the application filed with the department.

Section 4. Evaluation of Transportation Plan. (1) The State Highway Engineer shall cause each road, street and bridge listed on the application to be evaluated to determine if the requested weights can be allowed without being unreasonably detrimental to the safety and convenience of the traveling public. Such evaluation may include, but not be limited to, the following:

(a) The design and construction of the roads and bridges.

(b) The current condition of the roads and bridges.

(c) The structural adequacy of the roads and bridges.

(d) The types, numbers, and configurations of the vehicles to be used for the hauling of the coal.

(e) Proposed improvements to be made to the roads or bridges pursuant to a cooperative agreement.

(f) The rate of deterioration and the estimated amount of damage to be sustained by the roads or bridges considering the level of maintenance to be accomplished pursuant to a cooperative agreement and/or normal routine maintenance.

(g) The effect of any approved maintenance, construction, or reconstruction of the roads or bridges to be provided by the state or persons other than the state under a cooperative agreement.

(h) Historical data of the roads and bridges.

(2) After evaluation, the State Highway Engineer shall submit to the Commissioner of Vehicle Regulation in writing his analysis of the proposed transportation plan and his recommendations. The analysis shall be accompanied by reasons setting forth the basis of the evaluation by the State Highway Engineer.

Section 5. Notification to Applicant. Upon receipt of the evaluation from the State Highway Engineer, the Department of Vehicle Regulation shall notify the applicant of the determination of the Department of Vehicle Regulation. If the plan is certified, one (1) original and two (2) copies will be returned to the applicant. If the plan is not certified, the applicant shall be so notified with the reasons as the basis of the rejection set forth. If the plan is certified conditioned upon modification, the applicant will be advised of the required modifications for certification and may make revised application and resubmit it in accordance with Section 3 of this regulation.

Section 6. Change in Transportation Plan. No transportation plan may be changed or rerouted without prior approval of the Department of Vehicle Regulation. Requests for changes shall be processed in the same manner as applications for new transportation plans.

Section 7. Transportation Plan to Serve as Application for Cooperative Agreement or Ton-Tax License. The application for a transportation plan may be considered as an application for a cooperative agreement or a ton-tax license if the applicant completes the applicable portions of the application. Cooperative agreements and ton-tax licenses are available only for the transportation of coal.

Section 8. Suspension of Transportation Plan Under Emergency Conditions. In the event the Commissioner of the Department of Vehicle Regulation determines a condition exists which constitutes an imminent danger to the safety and convenience of the traveling public, the commissioner may immediately suspend without notice the transportation plan of any person. Within fifteen (15) days after such suspension, the commissioner shall notice those affected. Any person whose certified transportation plan has been suspended may, within twenty (20) days after notice appeal such action. Upon receipt of a proper and timely appeal, the commissioner or a representative of the department designated by the commissioner may conduct a hearing.

Section 9. Suspension or Revocation of a Transportation Plan. Any person who holds a coal shipper's license or is a party to a cooperative agreement and fails to comply with the terms, conditions, or requirements of such license or cooperative agreement may have served on him by the Commissioner of the Department of Vehicle Regulation

notice to said person of his failure to comply. Said notice shall set forth the reasons for any deficiencies and state a *reasonable* [the] time in which such deficiencies shall be remedied. Failure to comply with the directions given in the notice shall constitute just cause for immediate revocation or suspension of any applicable certified transportation plan. Any person whose plan has been suspended or revoked may within twenty (20) days after notice, appeal such action. Upon receipt of a proper and timely appeal the Commissioner of Vehicle Regulation or a representative of the department designated by the commissioner shall conduct a hearing. *An appeal of the final hearing order may be taken to the circuit court.*

Section 10. Temporary Authority. The commissioner may, upon receipt of proper application, grant temporary certification of a transportation plan where it can be adequately demonstrated that, either the routes proposed to be used have been previously approved for weights equal to or in excess of those contained in the proposed transportation plan, or an emergency condition exists which requires the use of alternate routes other than those previously certified and which have been approved for weights equal to or in excess of those previously approved in his transportation plan.

Section 11. Limitations. No person shall knowingly load or cause to be loaded, or operate or cause to be operated, any vehicle subject to a transportation plan in excess of the limits specified in the certified transportation plan or in excess of the limits specified on any road, street, or bridge other than those listed on the certified transportation plan. No person shall operate or cause to be operated any vehicle in excess of the posted weight limit of any road or bridge unless specifically authorized by permit, agreement or license.

Section 12. Reporting Requirements. (1) On or before the 20th day of the month following the interval in which any coal is shipped over public highways, roads, bridges or streets by or on behalf of any holder of a certified transportation plan from a mine mouth or pit to a processing plant, tipple, loading dock, or customer, or from any of the foregoing locations to another of such locations, the holder of the certified transportation plan shall file a report on Form TD 59-100 (Coal Severer and/or Route and Tonnage Report) or other form designated by the cabinet. This report is to be filed with the Kentucky Department of Highways, Division of Planning, and contain information required by the Transportation Cabinet relative to the ton miles of coal transported on the public highways, streets, roads and bridges of each county, in or through which coal was transported. Unless otherwise specified, the reporting interval shall be a calendar year quarter. These forms will be provided by the Transportation Cabinet to each holder of a certified transportation plan on or before the last day of each reporting interval. A copy of the information furnished to the Natural Resources and Environmental Protection Cabinet pursuant to the permitting requirements of KRS Chapter 350 regarding public road transportation plan may, subject to its approval, be submitted to the Transportation Cabinet to satisfy the reporting requirements of this section. The holder of a certified transportation plan is responsible for obtaining and reporting the origin, the destination, the tons and approximate highway mileage on each route or road for all coal transported pursuant to said plan on public highways or streets when the coal is sold by a person or organization, such as a broker, or when the coal is

transported by another individual or firm engaged in trucking coal for hire.

(2) A holder of a certified transportation plan who is not engaged in the transportation of coal in any way must notify the Department of Highways of the precise nature of his operations in order that his address may be removed either temporarily or permanently from the mailing list of those firms to which forms are periodically sent. Likewise, a holder of a certified transportation plan who ships no coal during an interval shall inform the department of that fact on or before the due date for that interval's report.

Section 13. Annual Updating Required. Certified transportation plans will remain valid unless suspended, revoked, or changed in accordance with this regulation. If there have been no changes, the holder of the certified transportation plan shall annually notify the Department of Vehicle Regulation to that effect.

Section 14. Extended Weights. If a certified transportation plan allows for the transporting of coal on state maintained roads, streets, and bridges in vehicles whose gross weights or axle weights exceed the limits designated by the Secretary of Transportation pursuant to KRS 189.222 all vehicles used for the transportation of the coal must be registered for extended weights. In addition, any person as defined in Section 1 of this regulation and transporting coal in vehicles registered as provided for in KRS 186.057(1) must also obtain a coal shipper's license in accordance with 601 KAR 9:074.

Section 15. Coal Cooperative Agreements. The provisions of cooperative agreements may be negotiated in conjunction with the Department of Highways concurrently with the evaluation of the transportation plan required by Section 4 of this regulation. Upon receipt of a proposed agreement certified by the State Highway Engineer and recommended by the Commissioner of Highways, the Commissioner of Vehicle Regulation may enter into the cooperative agreement with the applicant.

Section 16. Equitable Apportionment. The equitable apportionment of the incremental costs assigned to a person shall be based upon, but not limited to the following factors:

- (1) The cost of surface design, maintenance, construction and reconstruction.
- (2) The cost of shoulder design, maintenance, construction and reconstruction.
- (3) The cost of bridge design, maintenance, construction and reconstruction.
- (4) The tonnage shipped.
- (5) The type of vehicles used.
- (6) The number of vehicles used.
- (7) Other pertinent factors related to the transportation of coal at extended weights.

FLOYD G. POORE, Secretary
APPROVED BY AGENCY: September 5, 1984
FILED WITH LRC: September 5, 1984 at 3 p.m.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Amended After Hearing

601 KAR 35:040. General ton tax provisions.

RELATES TO: KRS 177.979, 177.980

PURSUANT TO: KRS 177.980

NECESSITY AND FUNCTION: Under KRS 177.980,

a provision is made for payment of a tax with the rate depending upon the shipping distance of the coal. Under this section, no cooperative agreement is necessary. The operator, processor, shipper, etc., must have a valid, certified transportation plan in effect prior to his shipping any coal at extended weights. This administrative regulation is needed in order to implement the ton tax provisions of KRS 177.980 [House Bill 25].

Section 1. Definitions. For the purpose of this regulation, the following definitions shall apply:

(1) A "motor carrier" is defined as a motor vehicle.

(2) "Extended weights" means weights in excess of the weights authorized by the Secretary of Transportation pursuant to KRS 189.222 on the state maintained highway system and pursuant to KRS 189.221.

(3) The "point at which coal is mined" means the point at which a motor vehicle transporting coal pursuant to a certified transportation plan first enters the public highway system.

Section 2. Shipping Requirements. Upon receipt of a certified transportation plan as defined in 601 KAR 35:020 and a valid ton tax license number, the operator, processor, or shipper may begin shipping coal at extended weights in vehicles registered pursuant to KRS 186.057.

Section 3. Proper Registration/Condition Precedent. All motor vehicles transporting coal at extended weights must be properly registered under KRS 186.057 for such weights. No vehicle shall carry weight in excess of its properly licensed weight.

Section 4. Limitations. All motor vehicles registered under KRS 186.057(1) and transporting coal at extended weights pursuant to a ton tax license shall be limited to a radius of seventy-five (75) air miles from the point at which the coal is mined.

Section 5. Payment of Administrative Costs. All funds necessary for the assessment and collection of the ton tax may accrue to and be paid out of the restricted fund established in KRS 177.978.

Section 6. Notice of Transportation Plan to Motor Vehicle Operators. All mine operators, processors, and shippers shall provide a copy of their certified transportation plan issued pursuant to 601 KAR 35:020 to all vehicles transporting coal at extended weights on their behalf.

Section 7. Vehicles registered pursuant to KRS 186.057(2) must obtain a certified transportation plan. Such vehicles shall not be subject to either ton tax provisions or a cooperative agreement.

FLOYD G. POORE, Secretary
APPROVED BY AGENCY: September 5, 1984
FILED WITH LRC: September 5, 1984 at 3 p.m.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Vehicle Licensing
Amended After Hearing

601 KAR 35:050. Registration for extended weights.

RELATES TO: KRS 186.057

PURSUANT TO: KRS 186.057, 186.0571

NECESSITY AND FUNCTION: Pursuant to KRS 186.057 and 186.0571, the Department of Vehicle Regulation

tion is vested with the responsibility of registering vehicles which may, primarily, transport coal at weights in excess of 80,000 pounds. This registration is subject to all laws and regulations now in effect. This administrative regulation is necessary to provide the procedures for such vehicle registration.

Section 1. Definitions. For the purpose of this regulation, the following definitions shall apply: (1) Primarily transporting coal—Ninety (90) percent of each vehicle's mileage must be either generated when the vehicle is empty or made in shipment of coal, and for each shipment to qualify the commodity must be 100 percent coal, coal refuse, or coal by-products related to the mining operation.

(2) Motor carrier—A motor carrier is defined as a motor vehicle.

(3) Extended weight license identification—Registration issued pursuant to KRS 186.057 permitting the licensing of vehicles to be operated at a gross weight greater than 80,000 pounds.

(4) Extended weights—Weights in excess of the weights authorized by the Secretary of Transportation pursuant to KRS 189.222 on the state-maintained highway system and pursuant to KRS 189.221.

(5) Apportioned registration—As defined in 601 KAR 9:045.

Section 2. Extended Weight License. All persons intending to primarily transport coal at extended weights shall apply for an extended weight license. The applicant shall use the vehicle transaction record as required by the *Transportation Cabinet* [and follow the guidelines as contained in the manual, Forms Applicable to Coal Transportation, adopted as 601 KAR 35:010 on July 13, 1984, a copy of which is on file with the Legislative Research Commission and available from the Transportation Cabinet, Department of Vehicle Regulation, 1001 State Office Building, Frankfort, Kentucky 40622 and any district highway office]. The applicant shall refer to the registration type as an "Extended Weight/Coal."

Section 3. Registration Decal. All persons, except apportioned registrants, registering pursuant to KRS 186.057 shall be issued a decal to be affixed to the left inside of the front windshield. Such decal shall bear the identical number as that on the registrant's license plate.

Section 4. Apportioned Registration. Any apportioned registrant who is validly registered for extended weights [under the forms applicable to coal transportation agreement], primarily transports coal, and has paid a fee for the extended weight license may receive a decal to be affixed to the left inside of the front windshield, indicating said registrant is validly registered under KRS 186.057. The Division of Motor Vehicle Licensing shall formally acknowledge receipt of the fee as so provided.

Section 5. Requirement for a Certified Transportation Plan. No registration issued pursuant to KRS 186.057 shall be considered a license to transport coal at extended weights absent a certified transportation plan. A copy of the certified transportation plan issued pursuant to 601 KAR 35:020 must be carried in the vehicle at all times when the vehicle is transporting coal at extended weights. Vehicles registered pursuant to KRS 186.057(2) must obtain a certified transportation plan. Such vehicles shall not

be subject to either ton-tax provisions or a cooperative agreement.

FLOYD G. POORE, Secretary

APPROVED BY AGENCY: September 5, 1984

FILED WITH LRC: September 5, 1984 at 3 p.m.

TRANSPORTATION CABINET

Department of Highways

Amended After hearing

603 KAR 4:035. Advertising devices; placement along limited access highways [roadways] of four (4) or more lanes.

RELATES TO: KRS 177.830 to 177.890

PURSUANT TO: KRS [13.082,] 177.860, 177.865

NECESSITY AND FUNCTION: KRS 177.860 and 177.865 require [authorized] the Commissioner of Highways to prescribe by regulations reasonable standards for the placement of advertising devices *within highway rights-of-way to provide directional information for business establishments offering goods and services in the interest of the traveling public* [along specified roadways]. This regulation sets forth the criteria to be followed in the erection and maintenance of specific motorist signing designed to inform motorists where travel related goods and services are available.

Section 1. Definitions. The following terms when used in the regulation shall have the following meaning:

(1) "Specific information panel" means an official sign placed within the highway right-of-way with the words "GAS," "FOOD," "LODGING," or "CAMPING," or combinations thereof, and space for one (1) or more individual business signs which may be attached to the panel.

(2) "Business sign" means a separately attached sign mounted on the specific information panel to show the brand name or trademark of qualified motorist services available [on the crossroad] near the interchange.

(3) "Business location" means a place of business where more than one (1) motorist service is available.

(4) "Logo" means a distinctive symbol or sign used by a motorist service business as a means of identification of its products or business.

(5) "Single exit interchange" means a grade separated crossing of roadways having one (1) mainline off-ramp *per direction* to provide access to the crossroad.

(6) "Double exit interchange" means a grade separated crossing of roadways having two (2) mainline off-ramps *in one (1) direction* to provide access to the crossroad.

(7) "Intersection" means a junction of two (2) roads at the same grade level.

(8) "Motorist service" means a place of business or a business location providing gas, food, lodging, or camping facilities or a combination thereof.

(9) "Primary motorist service" means a business location which gives precedence to one (1) motorist service over any other motorist service available at that business location.

(10) "Secondary or incidental motorist service" means one (1) or more motorist services available at a business location which are subordinate to the primary motorist service.

Section 2. General Provisions. The Commissioner, Department of Highways, shall authorize the placement of specific motorist service information panels with business signs within the right-of-way of limited access highways of

four (4) or more travel lanes in conformance with the Federal Highway Administration's (FHWA's) adopted standards as contained in *Federal Highway Program Manual (FHPM)* 6-8-3-8. The Department of Highways shall control the erection and maintenance of said panels and signs in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) and the following criteria:

(1) A specific information panel bearing separately attached business signs shall be erected between the previous interchange and 800 feet in advance of the exit direction sign at the interchange where motorist services are available. Spacing between each specific information panel shall also be a minimum of 800 feet and shall not conflict or interfere with other highway guide signs.

(2) Business signs separately attached on a specific information panel shall show the logo, name, brand, and/or trademark of motorist services conveniently accessible from the interchange. All business signs shall be furnished to the Department of Highways by the business at no cost to the Department and shall be manufactured to the standard specifications of the Department. *An exception to this subsection, Section 2(17) and Section 3(8) is any business sign which must be replaced as a result of a [the] change in regulations and policy [to allow six (6) instead of four (4) business signs on "FOOD," "LODGING," and "CAMPING" panels] may [shall] be provided by the Department of Highways at no cost to the business.*

(3) No specific information panels may be erected at an interchange or intersection which intersects another limited access facility nor at any interchange or intersection which does not have a convenient re-entry in the desired direction of travel. No more than one (1) specific information panel for "GAS," "FOOD," "LODGING," or "CAMPING" shall be erected in each direction for an interchange or intersection. In the direction of travel, the successive panels shall be for "CAMPING," "LODGING," "FOOD," and "GAS," in that order.

(4) Specific information panels may be permitted inside urban areas where interchange spacing is a minimum of two (2) miles and where the roadside development or terrain is such that motorist services are not readily identifiable from the traveled way for a reasonable distance in advance of an exit.

(5) For single exit interchanges, a standard full-size panel shall accommodate a maximum of six (6) business signs for "GAS," [//] and four (4) business signs for [//] "FOOD," "LODGING," and "CAMPING." In instances when the number of businesses does not warrant a full-size panel, a half-size panel may be used. Where service facilities are not visible from a ramp terminal, supplemental "GAS," "FOOD," "LODGING," or "CAMPING" logos shall be placed along the ramp or at the ramp terminal with a directional arrow and mileage to the service. *In exceptional cases, additional business signs may be considered by the Department of Highways.*

(6) For double exit interchanges, the specific information panel shall consist of two (2) sections, one (1) for each exit, mounted on the same base. The top section shall display business signs for the first exit and the lower section shall display business signs for the second exit. This panel shall accommodate a maximum of three (3) business signs for "GAS," [//] and two (2) business signs for [//] "FOOD," "LODGING," and "CAMPING" per exit. Where a type of motorist service is to be signed for only one (1) exit, one (1) section of the specific information sign may be omitted or a single exit interchange sign may be used. *In exceptional cases, additional business signs may be considered by the Department of Highways.*

(7) Criteria for installation of specific information panels with intersections at grade is significantly different. Provisions of distance from the crossroad, size of information panels and business signs, number of business signs per panel, distance between panels, and selection of businesses for qualification for business signs shall conform to standards and specifications as described in FHPM 6-8-3-8 and the state MUTCD.

(8) If a business ceases to exist or is not in operation for any reason, in accordance with the standards under which a business sign was placed on a specific information panel, the business sign shall be covered or removed as circumstances of each closing or cessation of business dictate.

(9) Any business which operates on a seasonal basis shall make provisions for removing or covering business signs during the off season. Businesses of this type shall notify the Department of Highways in writing thirty (30) days before such opening and closing occurs.

(10) Only one (1) business sign pertaining to a business location shall be permitted in each direction of travel in advance of an interchange or intersection; except that in the absence of adequate motorist service business signs to fill a specific information panel with primary service signs, secondary or incidental motorist service business signs may be allowed on those unfilled panels.

(11) At a business location where more than one (1) motorist service is available, only the primary motorist service shall be considered for the purpose of permitting business signs on a specific information panel; except that if a space is not available for the primary motorist service, a secondary or incidental motorist service may be considered if space is available on a specific information panel for that type service sign.

(12) Secondary or incidental motorist services shall not be considered until all businesses with a primary motorist service have been allowed an opportunity to have their business signs placed on the specific information panel pertaining to that type motorist service.

(13) In selecting secondary or incidental services, the same criteria as required for primary motorist services shall be used to determine their qualification for a business sign.

(14) Only those businesses within a three (3) mile limit in any direction from the centerline of a four (4) lane limited access road interchange shall be eligible to place signs on information panels except that, if within that three (3) mile limit services of the type being considered are not available, the Commissioner of Highways may extend the limit in three (3) mile increments until services of the type being considered, or fifteen (15) miles are reached.

(15) In the absence of exit number guide signs, the words "Next Right/Left" shall be used.

(16) A business with one (1) or more signs in violation of KRS 177.830 thru 177.890 on any route controlled by this statute and regulations pertaining thereto, shall not be eligible to qualify for a business sign until all violations have been removed.

(17) *In the absence of an official trademark or logo, the official [a] name as indicated in partnership agreements, incorporation documents, or otherwise documented may be substituted. Descriptive advertising words, phrases or slogans shall not be allowed on a business sign; i.e., "Open 24 Hours," "Joe's 24-Hour Market," [(only the name Joe's shall be displayed),] "Free Coffee," "Credit Cards Accepted," etc. Only the following descriptive words which are part of the official name will be permitted: "hotel," "motel," "inn," "lodge," "restaurant," "cafe," "cafeteria," "diner," or others with a similar meaning. The only exception to this provision is the word*

"Diesel" on a "GAS" business sign. ["Biggest Little," "We're No. 1," "Trying Harder," etc.]

(18) *In no case shall more than one (1) business with the same name, trademark or logo be permitted on the same specific information panel.* [Directional business signs may be erected on crossroads if the motorist service is at a distance or in a location which requires extended direction.]

Section 3. Requirements for Obtaining Business Signs. A motorist service business located at, or conveniently accessible from, an interchange or intersection shall be eligible for placement of a business sign on a specific information panel if it qualifies under the following conditions:

(1) Each business shall offer written assurance that it conforms with all applicable laws concerning the provision of public accommodations with regard to race, religion, color, sex, age, handicap, or national origin.

(2) To qualify for a "GAS" business sign, a business must be in operation seven (7) days a week, sixteen (16) hours a day, and, as a minimum, have fuel, oil, water, drinking water, restroom facilities, and telephone available.

(3) To qualify for a "FOOD" business sign, a business must be licensed or approved by the appropriate state and/or local regulatory agency, and, as a minimum, be in continuous operation to serve three (3) meals a day seven (7) days a week, sixteen (16) hours a day [to serve three (3) meals a day] beginning no later than 7:00 a.m., [and] have a reasonable seating capacity for sit-down, eat-in service, and telephone available.

(4) To qualify for a "LODGING" business sign, a facility must be licensed or approved by the appropriate state and/or local regulatory agency, have adequate sleeping accommodations, and have a public telephone.

(5) To qualify for a "CAMPING" business sign, a facility must be licensed or approved by the appropriate state and/or local regulatory agency, have adequate parking accommodations, modern sanitary facilities, and drinking water.

(6) Qualifying businesses nearest to the interchange or intersection shall receive preference in the selection process. If a new qualifying business comes into existence nearer the interchange or intersection than one which already has a business sign displayed on a fully utilized panel, the new business may have its business sign displayed and the business farthest from the interchange will have its business sign removed at the end of the contract year.

(7) The qualifying business shall pay to the Department an annual fee of \$600, in advance, for each mainline business sign for gas, food, and lodging and \$300 for camping. The annual fee for the first year must accompany the initial application. The yearly renewal fee shall be due thirty (30) days prior to the annual renewal date. The payment of this fee guarantees that the business sign will be displayed for one (1) contract year as long as the business violates no part of their agreement with the Department of Highways.

(8) If a sign or signs for a business [sign] must be removed for any reason, a fee of \$100 shall be charged for the reinstallation of such [a] sign(s) for each [the same] business at each interchange.

(9) Business sign logos shall be delivered to the appropriate Highway District [General Manager] within sixty (60) days of notification of approval by the Department of Highways [Division of Roadside Regulation Director]. Failure to deliver the business sign within this specified time period may result in the forfeiture of the fee, and

another business or businesses may be given the opportunity to qualify for the vacated space.

(10) The qualifying business shall be responsible for damages to business signs caused by acts of vandalism or natural causes requiring repair or replacement of business signs. No business sign shall be displayed which will misinform the traveling public or which is unsightly, badly faded, or in a state of delapidation. In such instances the business shall provide a new or renovated business sign.

Section 4. Measurements. (1) Measurements in the selection of qualified businesses for business signs shall be from the juncture of the center line, measured between the center edges of the main traveled way of a four (4) lane limited access road and the center line of a non-limited access crossroad.

(2) Selection of businesses for display of business signs shall begin at the point of measurement described in subsection (1) of this section to the nearest point of vehicle travel to the exit from the crossroad or public thoroughfare to the particular motorist service.

Section 5. Application forms, criteria for selection of businesses with motorist services, standards of quality of business logos and any other information relative to the activities and functions necessary and authorized by KRS 177.860, 177.865 and this regulation, to implement and administer such law and regulations may be obtained by writing the Transportation Cabinet [Division of Roadside Regulation, Room 224, State Office Building Annex,] Frankfort, Kentucky 40622.

Section 6. Revocation of Business Sign Contract. Failure to comply with any of the regulations set forth herein shall be cause for the revocation of a business sign contract. In such instances the Department of Highways shall notify the business in writing of the violation(s). If the business fails to comply within fifteen (15) days after receiving such notification, the Department of Highways shall take immediate action to remove, replace, or cover any such business signs.

Section 7. Appeal to the Commissioner of Highways for Exemption. The Commissioner of Highways may grant an exemption to a business from the necessity of complying with any of the requirements set forth in this regulation provided it is determined by the commissioner that such exemption is in the public interest and also provided the business conforms to the Federal Highway Administration standards for specific information signs and provided further that a business which conforms to all the requirements set forth in this section shall be given a preference over a business not conforming to all of said requirements in qualifying for placement of a business sign on a specific information panel. Any request for an exemption by a business to the Commissioner of Highways shall be filed in the form of an appeal as prescribed for in Section 8 of this regulation.

Section 8. [7.] Appeal of Department of Highways [Revocation] Action. Any business or person aggrieved by the action taken by the Department of Highways in administering these rules and regulations may request a formal hearing before the Commissioner of the Department of Highways. The request for the formal hearing shall be filed in writing and shall set forth the nature of the complaint and the grounds for the appeal.

STEPHEN REEDER, Commissioner

APPROVED BY AGENCY: August 31, 1984

FILED WITH LRC: September 4, 1984 at 2 p.m.

EDUCATION AND HUMANITIES CABINET

Department of Education
Office of Local Services
Amended After Hearing

702 KAR 3:190. Maximum class sizes.

RELATES TO: KRS 157.360

PURSUANT TO: KRS 156.070, 157.360

NECESSITY AND FUNCTION: KRS 157.360(2)(b) prescribes that the Superintendent of Public Instruction shall enforce maximum class sizes for every academic course requirement of the State Board of Education in kindergarten and grades one (1) through six (6), except in vocal and instrumental music, art, physical education, and special education classes and shall establish procedures for exemptions to the above. This regulation implements such functions.

Section 1. The maximum number of pupils enrolled in each academic class in grades kindergarten, one (1), two (2), and three (3) shall not exceed twenty-nine (29), except classes in vocal and instrumental music, art, and physical education. The maximum number of pupils enrolled in each academic class in grades four (4), five (5), and six (6) shall not exceed thirty-one (31), except classes in vocal and instrumental music, art, and physical education.

Section 2. (1) A superintendent of a local school district may request approval from the State Board of Education for a one (1) year exemption of no more classes than enroll twenty (20) percent of the pupils in kindergarten and grades one (1) through six (6) *in each school within the district*, when unusual circumstances are believed to warrant an increased class size for a specific class or classes.

(2) The request for exemption shall be filed with the Professional Staff Data forms and shall be forwarded to the Office of Local Services, Division of School Management and Audit, not later than October 1.

(3) The request for exemption shall contain detailed, specific reasons and circumstances causing the increased class size for each class for which an exemption is requested.

(4) The request for exemption shall contain an educational plan assuring that all affected students will receive a quality education.

(5) The request for exemption shall include a specific plan for reducing the class size prior to the beginning of the next school year. [A single class of students, having once been exempted, will not qualify for exemption in subsequent years.]

(6) Enrollment in a class for which an exemption has been approved shall not exceed thirty-five (35) students unless another teacher or an aide is provided.

Section 3. The Office of Local Services shall enforce this regulation through examination of the enrollments recorded on each Professional Staff Data form and shall certify compliance or deny Foundation Program units to a school district in non-compliance with this regulation.

ALICE McDONALD

Superintendent of Public Instruction

ADOPTED BY AGENCY: September 12, 1984

FILED WITH LRC: September 13, 1984 at Noon

COMPILER'S NOTE: The following regulation is republished to reflect amendments to the material incorporated by reference, although the actual body of the regulation was not amended. The amendment to the reference material is as follows:

—Under Integrated Science 2536 and under the listing for Grades 7-9 (page 87), add: "D50 Approval for teaching general science (issued prior to January 1, 1985)."

—Under Multidisciplinary Area Studies 2203 and under Grades 7-8 (page 101), add: "D20 Approval for teaching social studies (issued prior to January 1, 1985)."

The following statement should be added as the last sentence in the first paragraph of Section V, Subsection B, on page 11: "Study hall is recognized as part of the six hour instructional day."

The following statement should be added as the last sentence in the descriptions of each of the three course titles listed on page 83: "Instruction in Physical Education II, III, or IV shall not include practice or preparation for interscholastic sports."

EDUCATION AND HUMANITIES CABINET

Department of Education
Office of Instruction
Amended After Hearing

704 KAR 3:304. Required program of studies.

RELATES TO: KRS 156.160

PURSUANT TO: KRS [13.082,] 156.070, 156.160

NECESSITY AND FUNCTION: KRS 156.160 requires the State Board of Education to establish minimum courses of study and the scope of instruction that may be offered in the different classes of common schools, and to establish the minimum requirements for graduation from the courses offered. This regulation implements that duty.

Section 1. Pursuant to the authority vested in the State Board of Education by KRS 156.070 and 156.160, the "Program of Studies for Kentucky Schools, Grades K-12," as amended on July 9, 1984 [May 10, 1983], is hereby promulgated and filed with the Legislative Research Commission and incorporated herein by reference. Copies may be obtained from the *Office of Instruction*, Department of Education.

ALICE McDONALD

Superintendent of Public Instruction

ADOPTED BY AGENCY: July 9, 1984

FILED WITH LRC: September 13, 1984 at 12 Noon

EDUCATION AND HUMANITIES CABINET

Department of Education
Office of Instruction
Amended After Hearing

704 KAR 3:325. Effective Instructional Leadership Act.

RELATES TO: KRS 156.101

PURSUANT TO: KRS 156.070, 156.101

NECESSITY AND FUNCTION: KRS 156.101 requires the State Board of Education to establish specific criteria for implementing a statewide instructional leader improvement program for employees of the public schools holding valid certificates and performing the responsibilities as principal, assistant principal, supervisor of instruction,

guidance counselor or director of special education. This regulation establishes and sets criteria for such a program.

Section 1. By July 14, 1986, and every two (2) years thereafter, each instructional leader employed by the public schools of the Commonwealth shall participate in an intensive and continuing training program of no less than forty-two (42) participant hours of instruction approved by the State Department of Education. Completion of the required participant hours shall be reported to *the local school district and to the State Department of Education* [and to the local school district]. Failure to participate shall result in a one (1) year probation. [Should the training not be completed during the probationary period, it shall result in the loss of state funding for the Administrative and Special Instructional Services (ASIS) Unit in which the instructional leader is employed. In addition.] Those certified as instructional leaders on or after July 14, 1984, who fail to complete the training during the probationary period, shall have their administrative certificates revoked.

Section 2. (1) Participation in the program is required for all those certified *and employed* as instructional leaders. Under the provisions of Accreditation Standards (Standard V, Compliance Indicator 5) and amendments to 704 KAR 3:035 (annual inservice education plan) local school districts are required to develop a plan for instructional leadership training as part of their Master Inservice Education Plan. Districts which do not ensure that their instructional leaders obtain the required participant hours shall be cited for an accreditation deficiency.

(2) [Within the program criteria determined by the State Superintendent of Public Instruction.] The approval of specific training for instructional leaders, as well as the selection of *approved* providers of such training *may be determined by* [shall be the responsibility of] the superintendent of the local district.

(3) Every two (2) years each local school district must send a verification form to the Kentucky Department of Education, recording the names of all instructional leaders, their position titles, their social security numbers, the dates they entered the two (2) year cycle, and the number of hours of training obtained during the two (2) year cycle.

(4) All provider rosters, participant verification forms and certificates must be kept on permanent file by each local district for each participant. In the event that a participant changes districts, his/her original file should be sent to him/her and a duplicate retained in the original district.

Section 3. (1) Instructional leaders shall participate in a training program designed to improve and maintain the quality and effectiveness of instructional leadership in the public schools of the Commonwealth. The State Board of Education may approve agencies or institutions, defined hereinafter as providers, to design, implement, and evaluate such training. Training programs approved by the State Board of Education shall be:

(a) [(1)] Intensive and designed specifically for instructional leaders. To meet this criterion, a program should be of at least twelve (12) contact hours in duration with no instructional leader applying more than one (1) program of less than twelve (12) hours toward the required forty-two (42) [program must be of at least twelve (12) participant hours' duration]. Participation should occur during the contract period including extended employment, if applicable [period of extended employment. Participation shall occur during the school year for those not included in

extended employment]. Training should be scheduled so as to minimize disruption of the instructional program of the district. Participant hours exclude *non-training or contact* [non-instructional] time.

(b) [(2)] Competency-based, specifying instructional leadership competencies to be mastered by participants. Competencies may have general applicability for instructional leaders or may be role-specific. [The two (2) year (forty-two (42) participant hours) program for an individual instructional leader shall consist of a minimum of twenty-four (24) participant hours which are role-specific.] Based on identified needs, the department may require specific training.

(c) [(3)] Comprehensive in nature and shall meet identified needs. Needs shall be identified as described in the program content, Section 4 of this regulation. To meet the criterion of comprehensiveness, a program must contain the pertinent inter-related aspects of a broad competency area. This requirement shall not preclude approved subcontracting by providers for program components.

(d) [(4)] Characterized by follow-up activities to document the application of acquired competencies. To the optimum extent possible, these activities should occur on the employment site.

(e) [(5)] Evaluated in terms of program content, instructional processes, and impact upon participants. Specifically, participant application of competencies shall be verified by random sampling utilizing local school district provider, and participant data. Evaluation of the training shall include, but not be limited to, participant pre- and post-testing of the specific instructional leadership competencies.

(2) *The two (2) year cycle to which a training program will be applied is determined by the date on which the last contact hour of a training program occurs. The two (2) year cycle is divided into four (4) quarters for the purpose of prorating the forty-two (42) hour requirement of one who may become a participant after the beginning date of a two (2) year cycle. The quarters and hour requirements are as follows:*

(a) July 1, 1984—December 31, 1984—forty-two (42) hours by July 14, 1986;

(b) January 1, 1985—June 30, 1985—thirty-six (36) hours by July 14, 1986;

(c) July 1, 1985—December 31, 1985—twenty-four (24) hours by July 14, 1986; and

(d) January 1, 1986—June 30, 1986—twelve (12) hours by July 14, 1986.

(3) *On or before August 1, 1986, a participant's verification of attendance at approved Effective Instructional Leadership Training sessions and programs and copies of program certificates must be recorded with his/her district.*

Section 4. The training program content shall consist of specific competencies consistent with the following definition of instructional leadership: Instructional leadership is the process of encouraging and modeling appropriate academic expectations of students and teachers in a positive school climate with affective, physical, and social needs to be considered as they relate to the cognitive development of students. [Although the affective, physical, and social needs of students are considered, the emphasis is upon cognitive development.] The leadership competencies for the improvement of instruction for children and youth relate to an understanding of the teaching/learning process as well as to the supportive and evaluative functions of the instructional leader.

Section 5. Identification of needs will provide the basis for the definition of specific instructional leadership competencies to be addressed within the parameters of the above definition. The Department of Education shall conduct a state-wide assessment of the training needs of instructional leaders every two (2) years. The results will be provided to the local districts to be used in determining training program content. Local districts and cooperatives may supplement the state-wide assessment program.

Section 6. The provider of the training program shall:

(1) Develop programs which meet the criteria identified above;

(2) Select program faculty who have adequate, pertinent training/education, appropriate experience, and the ability to instruct effectively;

(3) Meet identified needs consistent with the definition of instructional leadership cited in Section 4 of this regulation;

(4) Determine eligible participants as identified by the superintendent of their LEA;

(5) *Identify in all informational literature the two (2) year cycle for which approval is granted and the specific category(ies) of instructional leader for which training is approved;*

(6) [(5)] Conduct training as set forth in its proposal and as approved by the Department of Education;

(7) [(6)] *Award participants Kentucky Department of Education certificates of attendance and document, through an attendance roster for each training session, [Document] participation of instructional leaders to the local district superintendent and the Department of Education [Superintendent of Public Instruction]; and*

(8) [(7)] Evaluate the training in terms of its content, instructional processes and impact upon the professional behavior of participants.

Section 7. The State Board of Education, upon recommendation of the Superintendent of Public Instruction, shall approve training providers, *and the Department of Education shall maintain and distribute a list of approved providers.*

Section 8. (1) Approval shall be granted for a period of up to two (2) consecutive years. The Superintendent of Public Instruction may revoke such approval if the provider does not implement the approved training program.

(2) Determination of approval as a provider will be based upon:

(a) *Submission of a provider's training program proposal within sixty (60) days prior to the State Board of Education meeting at which approval is requested;*

(b) [(a)] Specific program criteria;

(c) [(b)] Program content addressing specified competencies of instructional leadership *and specific categories of instructional leaders identified in training proposals;*

(d) *In order to protect bona fide institutions and organizations and to protect citizens of the Commonwealth from fraudulent practices, unfair competition and substandard educational training programs, the Kentucky State Board of Education shall require that a provider seeking program approval meet the following criteria:*

1. *An established organizational structure including a legally chartered or organized status or an interagency agreement;*

2. *Legally appropriate officers and/or a governing body, membership representative of the education profession, and a verifiable domicile; and*

3. *A record of effective sponsorship of inservice activities.*

(e) *Local districts and educational cooperatives may qualify as providers.*

ALICE McDONALD

Superintendent of Public Instruction

ADOPTED BY AGENCY: September 12, 1984

FILED WITH LRC: September 13, 1984 at Noon

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Vocational Education

Amended After Hearing

705 KAR 7:070. Minimum standards of admission for long-term adult students in vocational programs.

RELATES TO: KRS 163.030

PURSUANT TO: KRS 156.070, 163.030

NECESSITY AND FUNCTION: KRS 163.030 vests the State Board of Education with authority to carry out the purposes of the state's vocational education program and adopted federal acts relative thereto. The purpose of this regulation is to establish minimum entrance requirements for students entering vocational programs, to establish a base for determining if students may receive advanced placement, to assist in developing remedial plans for students who need help in meeting minimum admission requirements, and to determine if a student needs additional assessment.

Section 1. The following minimum requirements shall apply to those schools offering training to students who have graduated or left high school and are enrolled in an occupational preparation program of 500 hours or more in length that does not lead to an associate degree:

(1) Students enrolling in a vocational school postsecondary program must be sixteen (16) years of age or older;

(2) Students enrolling must have successfully completed requirements for a high school diploma or its equivalent. Students who do not possess a high school diploma or its equivalent may be admitted with special status provided the student agrees to pursue the high school equivalency certificate;

(3) Students enrolling must complete an application form and provide a transcript of previous school work completed, including scale scores on the California Test of Basic Skills (CTBS) if taken in the last three (3) years;

(4) Students enrolling who do not have a transcript and/or CTBS scale scores must take the Test of Adult Basic Education (TABE). Students not having acceptable CTBS scale scores for program admission may take the TABE;

(5) Students may be admitted to the school upon completion of application, required records, and test results and may pursue instruction in a basic academic skills program, career exploration, [and] core elective courses, and *modified/special programs for handicapped; and*

(6) The Kentucky Department of Education does not discriminate on the basis of race, color, national origin, marital status, age, sex, or handicap.

Section 2. Students who have been admitted to the school must meet admission standards for the occupational program. The following minimum requirements shall apply to all students:

(1) Scale scores from California Test of Basic Skills (CTBS), Form U, or Test of Adult Basic Education

(TABE), Form D, will be used in program placement and in developing a plan for students who need help in remedial work to meet minimum program admission requirements.

(2) Students must have the following scale scores for admission to a vocational program not otherwise mentioned:

	CTBS	TABE
Reading	725	479
Math	717	504

Students who score below said minimum will be referred to the Learning Resource Center prior to admission to the program. Students achieving the minimum basic skills in the Learning Center will be admitted to the program when a work station is available.

(3) Students who have the following scale scores must be enrolled in math and reading programs at the school to improve their skills. Enrollment may be concurrent with or prior to enrollment in the program.

	CTBS	TABE
Reading	725 to 770	479 to 574
Math	717 to 732	504 to 581

(4) Students enrolling in Air Craft Mechanics, Biomedical Technician, Electronics, Instrumentation, and Drafting must have the following scale scores to be admitted to the program:

	CTBS	TABE
Reading	753	542
Math	726	544

(5) Students enrolling in Practical Nursing, Radiologic Technology, Respiratory Therapy, Surgical Technology, and Civil and Highway Technology must have the following scale scores to be admitted to the program:

	CTBS	TABE
Reading	770	574
Math	732	581

(6) Students enrolling in Biomedical Equipment Technician, Medical Assistant, Mine Maintenance, Practical Nurse, Radiologic Technology, Respiratory Therapy, and Surgical Technology must be seventeen (17) years of age or older.

(7) Students enrolling in Heavy Equipment Operator, Heavy Equipment Maintenance, and Mine Equipment Operator must be eighteen (18) years of age or older.

(8) Students enrolling in Mine Equipment Operator must *complete forty-eight (48) hour Mine Safety Training Program before entering the simulated mine* [be certified miners].

(9) Students enrolling in Heavy Equipment Operator and Heavy Equipment Maintenance must have a valid driver's license.

Section 3. The following minimum requirements shall apply to those students requesting to transfer credit and be admitted with advanced standing from other vocational schools or other institutions accredited by an educational agency recognized by the Kentucky Department of Education:

(1) The student must supply the name and address of all previous institutions that provided vocational training;

(2) The student must provide a record of competencies achieved, length of training, date of enrollment, and date

of termination from each institution. The receiving school may validate competencies through testing and interviewing; and

(3) The student must provide all records and reports which are required by the state boards and/or licensing agencies in a given vocational program.

Section 4. This regulation shall be effective on a pilot basis for Rowan State Vocational-Technical School and the Northern Kentucky State Vocational-Technical School during the 1984-85 school year, but shall be effective for all state-operated vocational schools in the 1985-86 school year and thereafter.

Alice McDonald

Superintendent of Public Instruction

ADOPTED BY AGENCY: September 12, 1984

FILED WITH LRC: September 13, 1984 at Noon

COMPILER'S NOTE: The following regulation is republished to reflect amendments to the material incorporated by reference, although the actual body of the regulation was not amended. The amendment to the reference material is as follows:

The second paragraph of the policy titled "Training" on page eleven of the section "Policies of Office of Vocational Rehabilitation" of the amended State Plan should be deleted and replaced by the following two paragraphs:

"The agency will provide tuition, fees and related expenses at Gallaudet and NTID regardless of comparison with cost of tuition, fees and related expenses at a state-supported school due to the provision of essential support services (interpreting services, notetaking services, tutoring services) for the deaf at these two institutions.

Agency approved post-secondary programs for the deaf other than Gallaudet and NTID offering interpreting services, notetaking services, and tutoring services may be utilized for clients who are deaf if the total cost of attendance does not exceed the total cost of provision of tuition, fees and interpreting services, notetaking services, tutoring services at the highest state-supported institution in Kentucky that offers similar vocational preparation."

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Vocational Rehabilitation

Amended After Hearing

706 KAR 1:010. Three-year plan for vocational rehabilitation services.

RELATES TO: KRS 156.010, 156.031, [156.070,] 163.140, 163.160

PURSUANT TO: KRS [13.082,] 163.140

NECESSITY AND FUNCTION: Section 101, Title I, P.L. 93-112, as amended, requires the submission of an Interim Three-Year State Plan for Vocational Rehabilitation Services, to the Secretary, *United States* Department of Education. The plan must be approved in order for a state to be eligible for grants from the allotments of funds under Title I, P.L. 93-112, as amended by P.L. 93-516 and P.L. 95-602, and P.L. 98-221, and this regulation adopts the pertinent state plan developed and approved by the Department of Education and setting forth rules governing

the services, personnel, and administration of the *Office* [Bureau] of *Vocational Rehabilitation* [Services].

Section 1. Pursuant to the authority vested in the Kentucky State Board of Education by KRS 163.140, the revised Kentucky State Plan for Vocational Rehabilitation Services for the period October 1, 1982 through September 30, 1985, effective October 1, 1984 as revised July 10, 1984 [1983], is presented herewith for filing with the Legislative Research Commission, and incorporated by reference. A copy of said plan can be obtained from the *Office* [Bureau] of *Vocational Rehabilitation* [Services], Department of Education.

ALICE McDONALD

Superintendent of Public Instruction

ADOPTED BY AGENCY: July 10, 1984

FILED WITH LRC: September 13, 1984 at 12 Noon

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Amended After Hearing

806 KAR 15:010. Variable annuity contracts.

RELATES TO: KRS 304.7-240, 304.9-160, 304.15-390

PURSUANT TO: KRS Chapter 13A [13.082], 304.2-110, 304.15-390

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. *KRS 304.15-390 provides that the commissioner may promulgate regulations controlling the sale and issuance of variable contracts.* This regulation sets forth the requirements on variable annuity contracts.

Section 1. Scope and Definitions. (1) The term "variable contract," when used in this regulation, shall mean any contract which provides for annuity benefits which vary according to the investment experience of any separate account or accounts maintained by the insurer as to such contract, as provided for in KRS 304.15-390.

(2) "Agent," when used in this regulation, shall mean any person, corporation, partnership, or other legal entity which under the laws of this state is licensed as a life insurance agent.

[(3) "Variable contract agent," when used in this regulation, shall mean an agent who shall sell or offer to sell any variable contract.]

[(4) The "securities examination" called for by subsection (2) of Section 8 shall include any of the following:]

[(a) Any state securities sales examination accepted by the Securities and Exchange Commission;]

[(b) The National Association of Securities Dealers, Inc. Examination for Principals, or Examination for Qualification as a Registered Representative;]

[(c) The various securities examinations required by the New York Stock Exchange, the American Stock Exchange, Pacific Stock Exchange, or any other registered national securities exchange;]

[(d) The Securities and Exchange Commission test given pursuant to Section 15(b)(8) of the Securities Exchange Act of 1934.]

Section 2. Qualification of Insurance Companies to Issue Variable Contracts. (1) No company shall deliver or issue for delivery variable contracts within this state unless:

(a) It is licensed or organized to do a life insurance or annuity business in this state; and

(b) The commissioner is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. In this connection, the commissioner shall consider, among other things:

1. The history and financial condition of the company;

2. The character, responsibility and fitness of the officers and directors of the company; and

3. The law and regulation under which the company is authorized in the state of domicile to issue variable contracts.

(2) If the company is a subsidiary of an admitted life insurance company, or affiliated with such company by common management or ownership, it may be deemed by the commissioner to have satisfied the provisions of subsection (1)(b) of this section if either it or such admitted life company satisfies the aforementioned provisions; provided, further, that companies licensed and having a satisfactory record of doing business in this state for a period of at least three (3) years may be deemed to have satisfied the commissioner with respect to subsection (1)(b) of this section.

(3) Before any company shall deliver or issue for delivery variable contracts within this state it shall submit to the commissioner:

(a) A general description of the kinds of variable contracts it intends to issue.

(b) If requested by the commissioner, a copy of the statutes and regulations of its state of domicile under which it is authorized to issue variable contracts; and

(c) If requested by the commissioner, biographical data with respect to officers and directors of the company on the NAIC uniform biographical data forms.

Section 3. Separate Account or Separate Accounts. A domestic company issuing variable contracts shall establish one (1) or more separate accounts pursuant to KRS 304.15-390, subject to the following provisions of this section:

(1) (a) Except as may be provided with respect to reserves for guaranteed benefits and funds referred to in paragraph (b) of this subsection.

1. Amount allocated to any separate account and accumulations thereon may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies; and

2. The investments in such separate account or accounts shall not be taken into account in applying the investment limitations otherwise applicable to the investments of the company.

(b) Reserves for:

1. Benefits guaranteed as to dollar amount and duration; and

2. Funds guaranteed as to principal amount or stated rate of interest may be maintained in a separate account if a portion of the assets of such separate account at least equal to such reserve liability is invested in accordance with the laws and regulations of this state governing the investments of life insurance companies. Such portion of the assets also shall not be taken into account in applying the investment limitations otherwise applicable to the investments of the company.

(c) With respect to seventy-five (75) percent of the market value of the total assets in a separate account no company shall purchase or otherwise acquire the securities of any insurer, other than securities issued or guaranteed as to principal or interest by the United States, if immediately

after such purchase or acquisition the market value of such investment, together with prior investments of such separate account in such security taken at market would exceed ten (10) percent of the market value of the assets of said separate account; provided, however, that the commissioner may waive such limitation if, in his opinion, such waiver will not render the operation of such separate account hazardous to the public or the policyholders in this state.

(d) Unless otherwise permitted by law or approved by the commissioner, no company shall purchase or otherwise acquire for its separate accounts the voting securities of any insurer if as a result of such acquisition the insurance company and its separate accounts, in the aggregate, will own more than ten (10) percent of the total issued and outstanding voting securities of such insurer; provided, that the foregoing shall not apply with respect to securities held in separate accounts, the voting rights in which are exercisable only in accordance with instructions from persons having interest in such accounts.

(e) The limitations provided in paragraphs (c) and (d) of this subsection shall not apply to the investment with respect to a separate account in the securities of an investment company registered under the Investment Company Act of 1940, provided that the investments of such investment company comply in substance with paragraphs (c) and (d) of this subsection.

(2) Unless otherwise approved by the commissioner, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate account; provided, that unless otherwise approved by the commissioner, the portion, if any, of the assets of such separate account equal to the company's reserve liability with regard to the benefits and funds referred to in subsection (1)(b) of this section shall be valued in accordance with the rules otherwise applicable to the company's assets.

(3) If and to the extent so provided under the applicable contracts, that portion of the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct.

(4) Notwithstanding any other provisions of law a company may:

(a) With respect to any separate account registered with the Securities and Exchange Commission as a unit investment trust exercise voting rights in connection with any securities of a regulated investment company registered under the Investment Company Act of 1940 and held in such separate accounts in accordance with instructions from persons having interests in such accounts ratably as determined by the company; or

(b) With respect to any separate account registered with the Securities and Exchange Commission as a management investment company, establish for such account a committee, board, or other body, the members of which may or may not be otherwise affiliated with such company and may be elected to such membership by the vote of persons having interests in such account ratably as determined by the company. Such committee, board or other body may have the power, exercisable alone or in conjunction with others to manage such separate account and the investment of its assets.

(c) With respect to any separate account registered with

the Securities and Exchange Commission, a company, committee, board or other body may make such other provisions as may be deemed appropriate to facilitate compliance with requirements of any federal or state law now or hereafter in effect; provided that the commissioner approves such provisions as not hazardous to the public or the company's policyholders in this state.

(5) No sale, exchange or other transfer of assets may be made by a company between any of its separate accounts or between any other investment account and one (1) or more of its separate accounts unless, in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless such transfer, whether into or from a separate account is made by a transfer of cash, or by a transfer of securities having a valuation which could be readily determined in the marketplace, provided that such transfer of securities is approved by the commissioner. The commissioner may authorize other transfers among such accounts if, in his opinion, such transfers would not be inequitable.

(6) The company shall maintain in each such separate account assets with a value at least equal to the reserves and other contract liabilities with respect to such account, except as may otherwise be approved by the commissioner.

(7) Rules under any provision of the insurance laws of this state or any regulation applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate accounts committee, board or other similar body. No officer or director of such company nor any member of the committee, board or body of a separate account shall receive directly or indirectly, any commission or any other compensation with respect to the purchase or sale of assets of such separate account.

Section 4. Filing of Contracts. The filing requirements applicable to variable contracts shall be those filing requirements otherwise applicable under existing statutes and regulations of this state with respect to individual and group life insurance an annuity contract form filings to the extent appropriate.

Section 5. Contracts Providing for Variable Benefits. (1) Any variable contract providing benefits payable in variable amounts delivered or issued for delivery in this state shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits. Any such contract, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state that such dollar amount will vary to reflect investment experience and shall contain on its first page a clear statement to the effect that the benefits thereunder are on a variable basis.

(2) Illustrations of benefits payable under any variable contract shall not include projections of past investment experience into the future or attempted predictions of future investment experience; provided that nothing contained herein is intended to prohibit use of hypothetical assumed rates of return to illustrate possible levels of benefits.

(3) No individual variable contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this state unless it contains in substance the following provision or provisions which in the opinion of the commissioner are more favorable to the holders of such contracts:

(a) A provision that there shall be a period of grace of thirty (30) days or of one (1) month, within which any stipulated payment to the insurer falling due after the first may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which any such payment received during the period of grace shall be applied to produce the values under the contract arising therefrom;

(b) A provision that, at any time within three (3) years from the date of default, in making periodic stipulated payments to the insurer during the life of the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as required by the contract, and of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and indebtedness shall be applied to produce the values under the contract arising therefrom;

(c) A provision specifying the options available in the event of default in a periodic stipulated payment. Such options may include an option to surrender the contract for a cash value as determined by the contract, and shall include an option to receive a paid-up annuity if the contract is not surrendered for cash, the amount of such paid-up annuity being determined by applying the value of the contract at the annuity commencement date in accordance with the terms of the contract.

(4) Any variable contract delivered or issued for delivery in this state shall stipulate the investment increment factors to be used in computing the dollar amount of variable benefits or other variable contractual payments or values thereunder, and may guarantee that expense and/or mortality results shall not adversely affect such dollar amounts. In the case of an individual variable contract under which the expense and mortality results may adversely affect the dollar amount of benefits, the expense and mortality factors shall be stipulated in the contract.

(a) In computing the dollar amount of variable benefits or other contractual payments or values under an individual variable contract:

1. The annual net investment increment assumption shall not exceed five (5) percent, except with the approval of the commissioner;

2. To the extent that the level of benefits may be affected by future mortality results, the mortality factor shall be determined from the Annuity Mortality Table for 1949, Ultimate, or any modification of that table not having a lower life expectancy at any age, or, if approved by the commissioner, from another table.

(b) "Expense," as used in this subsection, may exclude some or all taxes, as stipulated in the contract.

(5) The reserve liability for variable contracts shall be established pursuant to the requirements of the standard valuation law in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

Section 6. Required Reports. (1) Any company issuing individual variable contracts shall mail to the contract holder at least once in each contract year after the first at his last address known to the company, a statement or statements reporting the investments held in the separate account. The company shall submit annually to the insurance commissioner a statement of the business of its separate account or accounts in such form as may be

prescribed by the National Association of Insurance Commissioners.

(2) Any company issuing individual variable contracts shall mail to the contract holder at least once in each contract year after the first at his last address known to the company, a statement reporting as of a date not more than four (4) months previous to the date of mailing, in the case of an annuity contract under which payments have not yet commenced:

(a) The number of accumulation units credited to such contract and the dollar value of a unit; or

(b) The value of the contract holder's account.

Section 7. Foreign Companies. If the law or regulation in the place of domicile of a foreign company provides a degree of protection to the policyholders and the public which is substantially equal to that provided by this regulation, the commissioner, to the extent deemed appropriate by him in his discretion, may consider compliance with such law or regulation as compliance with this regulation.

Section 8. (1) *No person shall be or act as an agent for the solicitation or sale of variable contracts except while duly appointed and licensed under the Kentucky Insurance Code as life insurance agent with respect to the insurer, and while meeting federal law requirements for dealing in securities.* [Examination of Agents and Other Persons. (1) (a) No agent shall be eligible to sell or offer for sale a variable contract unless prior to making any solicitation of sale of such a contract, he also be licensed as a variable contract agent.]

(2) *Any person doing business as agent under this section shall immediately report to the Commissioner:*

(a) *The imposition of any disciplinary sanction (including, but not limited to, suspension or revocation of membership, suspension, revocation, or denial of registration) imposed upon such person by any national securities exchange, national securities association, or any federal, state, or territorial agency with jurisdiction over securities, variable annuities, or variable life insurance.*

(b) *Any judgment or injunction entered against such person on the basis of conduct deemed to have involved unfair, false, misleading, or deceptive practices, or violation of any securities law (whether statute or regulation).*

[(b) Any agent who participates only in the sale or offering for sale of variable contracts that are not registered under the Federal Securities Act of 1933 need not be licensed as a variable contract agent.]

[(2) The licensing as a variable contract agent shall not become effective until such agent shall have satisfactorily passed written examinations upon securities and variable contracts. One (1) examination shall be on securities generally and shall be one of the examinations listed in Section 1(4). The other shall deal with variable contracts and shall be composed of at least fifteen (15) questions, but not more than fifty (50) questions, concerning the history, purpose, regulation, and sale of variable contracts.]

[(3) The examination on variable contracts will be given in such places and at such times as the commissioner shall from time to time designate. Upon application for license as a variable contract agent, the applicant shall be notified of the date of the next examination.]

[(4) Every applicant for license as a variable contract agent shall be required, at the time of application, to present evidence that the applicant:]

[(a) Has previously passed an examination listed in Section 1(4) of this regulation; or

[(b) Is currently registered with the Federal Securities and Exchange Commission as a broker-dealer, or is cur-

rently associated with a broker-dealer and has met qualification requirements with respect to such association.]

[(5) Every applicant applying for license as a variable contract agent shall satisfactorily complete the variable contract examination required by subsection (2) of this section, with a grade of at least seventy (70) percent, or shall present evidence of successful completion of either a variable contract examination given under the supervision of an insurance department of any state or territory of the United States which has adopted an examination recommended for the testing of variable contract agents by the National Association of Insurance Commissioners or has been examined and licensed by any such department prior to its adoption of the National Association of Insurance Commissioners Model Regulation.]

[(6) Any applicant failing to pass the variable contract examination may take it again twenty (20) days after the first and any subsequent examinations.]

[(7) Every application for a license as a variable contract agent shall be accompanied by an examination fee of ten (10) dollars. A fee of five (5) dollars will be charged for each re-examination administered to an applicant.]

[(8) Report of the results of any examination given pursuant to this regulation shall be made by the department on "Commissioner's Report of Examination No." (see Section 10 of this regulation).]

[(9) Except as modified by this regulation, the regulations of this department governing the licensing of life insurance agents including examinations therefor shall apply hereto.]

[(10) (a) Results of the examination administered pursuant to subsection (2) of this section will be reported by this department to the applicant's company. In addition, examination results will be reported by this department to any other state insurance department requesting confirmation of the examination grade, either upon request of such department or upon request of the applicant or his company.]

[(b) A charge of fifty (50) cents shall be made for the second and each subsequent report of examination results.]

[(11) Records of the examination grade of each applicant upon an examination administered by this department, or upon an examination administered by another agency or authority and reported to this department, will be retained in the file pertaining to said applicant.]

[(12) Any person licensed in this state as a variable contract agent shall immediately report to the commissioner:]

[(a) Any suspension or revocation of his variable contract agent's license or life insurance agent's license in any other state or territory of the United States.]

[(b) The imposition of any disciplinary sanction (including suspension or expulsion from membership, suspension or revocation of or denial of registration) imposed upon him by any national securities exchange, or national securities association, or any federal or state or territorial agency with jurisdiction over securities or contracts on a variable basis.]

[(c) Any judgment or injunction entered against him on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or regulation.]

[(13) The commissioner may reject any application or suspend or revoke or refuse to renew any variable contract agent's license upon any ground that would bar such applicant or such agent from being licensed to sell life insurance contracts in this state. The rules governing any proceeding relating to the suspension or revocation of a life insurance agent's license shall also govern any proceeding for suspension or revocation of a variable contract agent's license.]

[(14) Renewal of a variable contract agent's license shall follow the same procedure established for renewal of an agent's license to sell life insurance contracts in this state.]

[(15) Any agent applying for a license as a variable contract agent shall do so by filing with this department "Uniform Form AP for Securities Salesmen, Variable Contract Salesmen and Other Associated Persons."]

Section 9. Exemptions. This regulation shall not apply to a deposit administration or similar contract pursuant to which a separate account is established in connection with the employee pension, retirement or profit-sharing plan of the insurer and/or its affiliates.

[Section 10.]

COMMISSIONER'S
REPORT OF EXAMINATION NO. _____STATE OF KENTUCKY
DEPARTMENT OF INSURANCE

APPROVAL OF LICENSE AS A VARIABLE CONTRACT AGENT

Name of Applicant_____
Address

When validated by the Department
of Insurance, this will be your
notice of approval of your quali-
fication for a variable contract
agent's license.

Enter Name and Address of broker
or dealer and of the company to
which approval of Application for
Variable Contract Agent's license
should be directed.

Broker-DealerLICENSE APPROVED
Date_____
Address_____
Commissioner_____
Company

TEST SCORE:

Address

Variable Contracts]

GIL McCARTY, Commissioner
M. H. WILSON, Secretary

APPROVED BY AGENCY: September 4, 1984

FILED WITH LRC: September 5, 1984 at 9:30 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Amended After Hearing

806 KAR 15:030. Variable life insurance.

RELATES TO: KRS 304.2-100, 304.7-240, 304.12-020, 304.12-030, 304.14-120, 304.15-115, 304.15-130, 304.15-390

PURSUANT TO: KRS Chapter 13A, 304.2-110, 304.15-390

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.15-390 authorizes the Commissioner of Insurance to make regulations controlling the sale and issuance of variable contracts. This regulation establishes guidelines for the sale and issuance of variable life insurance.

Section 1. Definitions. As used in this regulation:

(1) "Affiliate" of an insurer means any person, directly or indirectly, controlling, controlled by, or under common control with such insurer; any person who regularly furnishes investment advice to such insurer with respect to its separate accounts for which a specific fee or commission is charged; or any director, officer, partner, or employee of such insurer, controlling or controlled person, or person providing investment advice or any member of the immediate family of such person.

(2) "Agent" means any person, corporation, partnership, or other legal entity which is licensed by this state as a life insurance agent.

(3) "Assumed investment rate" means the rate of investment return which would be required to be credited to a variable life insurance policy, after deduction of charges for taxes, investment expenses, and mortality and expense guarantees to maintain the variable death benefit equal at all times to the amount of death benefit, other than incidental insurance benefits, which would be payable under the plan of insurance if the death benefit did not vary according to the investment experience of the separate account.

(4) "Benefit base" means the amount to which the net investment return is applied.

(5) "Commissioner" means the Commissioner of the Kentucky Department of Insurance.

(6) "Control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, or the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing more than ten (10) percent of the voting securities of any other person. This presumption may be rebutted by a showing made to the satisfaction of the commissioner that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(7) "Flexible premium policy" means any variable life

insurance policy other than a scheduled premium policy as specified in subsection (15) of this section.

(8) "General account" means all assets of the insurer other than assets in separate accounts established pursuant to KRS 304.15-390 or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer, whether or not for variable life insurance.

(9) "Incidental insurance benefit" means all insurance benefits in a variable life insurance policy, other than the variable death benefit and the minimum death benefit, including but not limited to accidental death and dismemberment benefits, disability benefits, guaranteed insurability options, family income, or term riders.

(10) "May" is permissive.

(11) "Minimum death benefit" means the amount of the guaranteed death benefit, other than incidental insurance benefits, payable under a variable life insurance policy regardless of the investment performance of the separate account.

(12) "Net investment return" means the rate of investment return in a separate account to be applied to the benefit base.

(13) "Person" has the meaning specified in KRS 304.1-020, and also includes a fund.

(14) "Policy processing day" means the day on which charges authorized in the policy are deducted from the policy's cash value.

(15) "Scheduled premium policy" means any variable life insurance policy under which both the amount and timing of premium payments are fixed by the insurer.

(16) "Separate account" means a separate account established pursuant to KRS 304.15-390 or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

(17) "Shall" is mandatory.

(18) "Variable death benefit" means the amount of the death benefit, other than incidental insurance benefits, payable under a variable life insurance policy dependent on the investment performance of the separate account, which the insurer would have to pay in the absence of any minimum death benefit.

(19) "Variable life insurance policy" means any individual policy which provides for life insurance the amount or duration of which varies according to the investment experience of any separate account or accounts established and maintained by the insurer as to such policy, pursuant to KRS 304.15-390 or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

Section 2. Qualification of Insurer to Issue Variable Life Insurance. The following requirements are applicable to all insurers either seeking authority to issue variable life insurance in this state or having authority to issue variable life insurance in this state.

(1) Licensing and approval to do business in this state. An insurer shall not deliver or issue for delivery in this state any variable life insurance policies unless:

(a) The insurer is licensed or organized to do a life insurance business in this state;

(b) The insurer has obtained the written approval of the commissioner for the issuance of variable life insurance policies in this state. The commissioner shall grant such written approval only after he has found that:

1. The plan of operation for the issuance of variable life insurance policies is not unsound;

2. The general character, reputation, and experience of the management and those persons or firms proposed to

supply consulting, investment, administrative, or custodial services to the insurer are such as to reasonably assure competent operation of the variable life insurance business of the insurer in this state; and

3. The present and foreseeable future financial condition of the insurer and its method of operation in connection with the issuance of such policies is not likely to render its operation hazardous to the public or its policyholders in this state. The commissioner shall consider, among other things:

a. The history of operation and financial condition of the insurer;

b. The qualifications, fitness, character, responsibility, reputation and experience of the officers and directors and other management of the insurer and those persons or firms proposed to supply consulting, investment, administrative, or custodial services to the insurer;

c. The applicable law and regulations under which the insurer is authorized in its state of domicile to issue variable life insurance policies. The state of entry of an alien insurer shall be deemed its state of domicile for this purpose; and

d. If the insurer is a subsidiary of, or is affiliated by common management or ownership with another company, its relationship to such other company and the degree to which the requesting insurer, as well as the other company, meets these standards.

(2) Filing for approval to do business in this state. The commissioner may, at his discretion, require that an insurer, before it delivers or issues for delivery any variable life insurance policy in this state, file with the commissioner the following information for the consideration of the commissioner in making the determination required by subsection (1) of this section:

(a) Copies of and a general description of the variable life insurance policies it intends to issue;

(b) A general description of the methods of operation of the variable life insurance business of the insurer, including methods of distribution of policies and the names of those persons or firms proposed to supply consulting, investment, administrative, custodial, or distributive services to the insurer;

(c) With respect to any separate account maintained by an insurer for any variable life insurance policy, a statement of the investment policy the issuer intends to follow for the investment of the assets held in such separate account, and a statement of procedures for changing such investment policy. The statement of investment policy shall include a description of the investment objectives intended for the separate account;

(d) A description of any investment advisory service contemplated as required by Section 5(10) of this regulation;

(e) A copy of the statutes and regulations of the state of domicile of the insurer under which it is authorized to issue variable life insurance policies;

(f) Biographical data with respect to officers and directors of the insurer on the National Association of Insurance Commissioners Uniform Biographical Data Form; and

(g) A statement of the insurer's actuary describing the mortality and expense risks which the insurer will bear under the policy.

(3) Standards of suitability. Every insurer seeking approval to enter into the variable life insurance business in this state shall establish and maintain a written statement specifying the standards of suitability to be used by the insurer. Such standards of suitability shall specify that no

recommendation shall be made to an applicant to purchase a variable life insurance policy and that no variable life insurance policy shall be issued in the absence of reasonable grounds to believe that the purchase of such policy is not unsuitable for such applicant on the basis of information furnished after reasonable inquiry of such applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and any other information known to the insurer or the agent making the recommendation.

(4) Use of sales materials. An insurer authorized to transact variable life insurance business in this state shall not use any sales material, advertising material, or descriptive literature or other materials of any kind in connection with its variable life insurance business in this state which is false, misleading, deceptive, or inaccurate.

(5) Requirements applicable to contractual services. Any material contract between an insurer and suppliers of consulting, investment, administrative, sales, marketing, custodial, or other services with respect to variable life insurance operations shall be in writing and provide that the supplier of such services shall furnish the commissioner with any information or reports in connection with such services which the commissioner may request in order to ascertain whether the variable life insurance operations of the insurer are being conducted in a manner consistent with these regulations, and any other applicable law or regulations.

(6) Reports to the commissioner. Any insurer authorized to transact the business of variable life insurance in this state shall submit to the commissioner, in addition to any other materials which may be required by this regulation or any other applicable laws or regulations:

(a) An annual statement of the business of its separate account or accounts in such forms as may be prescribed by the National Association of Insurance Commissioners; and

(b) Prior to use in this state any information furnished to applicants as provided for in Section 6 of this regulation; and

(c) Prior to use in this state the form of any of the reports to policyholders as provided for in Section 8 of this regulation; and

(d) Such additional information concerning its variable life insurance operations or its separate accounts as the commissioner may deem necessary.

Any material submitted to the commissioner under this section shall be disapproved if it is found to be false, misleading, deceptive, or inaccurate in any material respect and, if previously distributed, the commissioner shall require the distribution of amended material.

(7) Authority of commissioner to disapprove. Any material required to be filed with and approved by the commissioner shall be subject to disapproval if at any time it is found by him not to comply with the standards established in this regulation.

Section 3. Insurance Policy Requirements. The commissioner shall not approve any variable life insurance form filed pursuant to this regulation unless it conforms to the requirements of this article.

(1) Filing of variable life insurance policies. All variable life insurance policies, and all riders, endorsements, applications and other documents which are to be attached to be made a part of the policy and which relate to the variable nature of the policy, shall be filed with the commissioner and approved by him prior to delivery or issuance for delivery in this state.

(a) The procedures and requirements for such filing and approval shall be, to the extent appropriate and not in-

consistent with this regulation, the same as those otherwise applicable to other life insurance policies.

(b) The commissioner may approve variable life insurance policies and related forms with provisions the commissioner deems to be not less favorable to the policyholder and the beneficiary than those required by this regulation.

(2) Mandatory policy benefit and design requirements. Variable life insurance policies delivered or issued for delivery in this state shall comply with the following minimum requirements:

(a) Mortality and expense risks shall be borne by the insurer. The mortality and expense charges shall be subject to the maximums stated in the contract.

(b) For scheduled premium policies, a minimum death benefit shall be provided in an amount at least equal to the initial face amount of the policy so long as premiums are duly paid (subject to the provisions of Section 4(4)(b) of this regulation);

(c) The policy shall reflect the investment experience of one or more separate accounts established and maintained by the insurer. The insurer must demonstrate that the reflection of investment experience in the variable life insurance policy is actuarially sound.

(d) Each variable life insurance policy shall be credited with the full amount of the net investment return applied to the benefit base.

(e) Any changes in variable death benefits of each variable life insurance policy shall be determined at least annually.

(f) The cash value of each variable life insurance policy shall be determined at least monthly. The method of computation of cash values and other non-forfeiture benefits, as described either in the policy or in a statement filed with the commissioner of the state in which the policy is delivered, or issued for delivery, shall be in accordance with actuarial procedures that recognize the variable nature of the policy. [The method of computation must be such that, if the net investment return credited to the policy at all times from the date of issue should be equal to the assumed investment rate with premiums and benefits determined accordingly under the terms of the policy, then the resulting cash values to the minimum values required by KRS 304.6-130 to 304.6-180 (standard valuation law) for a general account policy with such premiums and benefits. The assumed investment rate shall not exceed the maximum interest rate permitted under the standard valuation law.] If the policy does not contain an assumed investment rate this demonstration shall be based on the maximum interest rate permitted under the standard valuation law. The method of computation may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees include, for example, but are not limited to, a guarantee that the amount payable at death or maturity shall be at least equal to the amount that otherwise would have been payable if the net investment return credited to the policy at all times from the date of issue had been equal to the assumed investment rate.

(g) The computation of values required for each variable life insurance policy may be based upon such reasonable and necessary approximations as are acceptable to the commissioner.

(3) Mandatory policy provisions. Every variable life insurance policy filed for approval in this state shall contain at least the following:

(a) The cover page or pages corresponding to the cover page of each such policy shall contain:

1. A prominent statement in either contrasting color or in boldface type that the amount or duration of death benefit may be variable or fixed under specified conditions;

2. A prominent statement in either contrasting color or in boldface type that cash values may increase or decrease in accordance with the experience of the separate account subject to any specified minimum guarantees;

3. A statement describing any minimum death benefit required pursuant to subsection (2)(b) of this section;

4. The method, or a reference to the policy provision which describes the method, for determining the amount of insurance payable at death;

5. To the extent permitted by state law, a captioned provision that the policyholder may return the variable life insurance policy within ten (10) days of receipt of the policy by the policyholder, and receive a refund equal to the sum of:

a. The difference between the premiums paid including any policy fees or other charges and the amounts allocated to any separate accounts under the policy; and

b. The value of the amounts allocated to any separate accounts under the policy, on the date the returned policy is received by the insurer or its agent. Until such time as state law authorizes the return of payments as calculated in the preceding sentence, the amount of the refund shall be the total of all premium payments for such policy.

6. Such other items as are currently required for fixed benefit life insurance policies and which are not inconsistent with this regulation.

(b) 1. For scheduled premium policies, a provision for a grace period of not less than thirty-one (31) days from the premium due date which shall provide that when the premium is paid within the grace period, policy values will be the same, except for the deduction of any overdue premium, as if the premium were paid on or before the due date.

2. For flexible premium policies, a provision for a grace period beginning on the policy processing day when the total charges authorized by the policy that are necessary to keep the policy in force until the next policy processing day exceed the amounts available under the policy to pay such charges in accordance with the terms of the policy. Such grace period shall end on a date not less than sixty-one (61) days after the mailing date of the report to policyholders required by Section 8(3) of this regulation. The death benefit payable during the grace period will equal the death benefit in effect immediately prior to such period less any overdue charges. If the policy processing days occur monthly, the insurer may require the payment of not more than three (3) times the charges which were due on the policy processing day on which the amounts available under the policy were insufficient to pay all charges authorized by the policy that are necessary to keep such policy in force until the next policy processing day.

(c) For scheduled premium policies, a provision that the policy will be reinstated at any time within two (2) years from the date of default upon the written application of the insured and evidence of insurability, including good health, satisfactory to the insurer, unless the cash surrender value has been paid or the period of extended insurance has expired, upon the payment of any outstanding indebtedness arising subsequent to the end of the grace period following the date of default together with accrued interest thereon to the date of reinstatement and payment of an amount not exceeding the greater of:

1. All overdue premiums with interest at a rate not ex-

ceeding *that specified in the contract* [eight (8) percent per annum compounded annually] and any indebtedness in effect at the end of the grace period following the date of default with interest at a rate not exceeding *that specified in the contract* [eight (8) percent per annum compounded annually]; or

2. 110 percent of the increase in cash value resulting from reinstatement plus all overdue premiums for incidental insurance benefits with interest at a rate not exceeding *that specified in the contract* [eight (8) percent per annum compounded annually]. *However, when making the calculations required by subparagraphs 1 and 2 of this paragraph, any indebtedness which is a policy loan must be repaid at interest charged in conformity with KRS 304.15-115.*

(d) A full description of the benefit base and of the method of calculation and application of any factors used to adjust variable benefits under the policy;

(e) A provision designating the separate account to be used and stating that:

1. The assets of such separate account shall be available to cover the liabilities of the general account of the insurer only to the extent that the assets of the separate account exceed the liabilities of the separate account arising under the variable life insurance policies supported by the separate account.

2. The assets of such separate account shall be valued at least as often as any policy benefits vary but at least monthly.

(f) A provision specifying what documents constitute the entire insurance contract under state law;

(g) A designation of the officers who are empowered to make an agreement or representation on behalf of the insurer and an indication that statements by the insured, or on his behalf, shall be considered as representations and not warranties;

(h) An identification of the owner of the insurance contract;

(i) A provision setting forth conditions or requirements as to the designation, or change of designation, of a beneficiary and a provision for disbursement of benefits in the absence of a beneficiary designation;

(j) A statement of any conditions or requirements concerning the assignment of the policy;

(k) A description of any adjustments in policy values to be made in the event of misstatement of age or sex of the insured;

(l) A provision that the policy shall be incontestable by the insurer after it has been in force for two (2) years during the lifetime of the insured, but any increase in the amount of the policy's death benefits subsequent to the policy issue date, which increase occurred upon a new application or request of the owner and was subject to satisfactory proof of the insured's insurability, shall be incontestable after any such increase has been in force, during the lifetime of the insured, for two (2) years from the date of issue of such increase;

(m) A provision stating that the investment policy of the separate account shall not be changed without the approval of the insurance commissioner of the state of domicile of the insurer, and that the approval process is on file with the commissioner of this state;

(n) A provision that payment of variable death benefits in excess of any minimum death benefits, cash values, policy loans, or partial withdrawals (except when used to pay premiums) or partial surrenders may be deferred:

1. For up to six (6) months from the date of request, if such payments are based on policy values which do not de-

pend on the investment performance of the separate account; or

2. Otherwise, for any period during which the New York Stock Exchange is closed for trading (except for normal holiday closing) or when the Securities and Exchange Commission has determined that a state of emergency exists which may make such payment impractical.

(o) If settlement options are provided, at least one such option shall be provided on a fixed basis only;

(p) A description of the basis for computing the cash value and the surrender value under the policy shall be included;

(q) Premiums or charges for incidental insurance benefits shall be stated separately;

(r) Any other policy provision required by this regulation;

(s) Such other items as are currently required for fixed benefit life insurance policies and are not inconsistent with this regulation;

(t) A provision for non-forfeiture insurance benefits. The insurer may establish a reasonable minimum cash value below which any non-forfeiture insurance options will not be available.

(4) Policy loan provisions. *Every variable life insurance policy, other than term insurance policies and pure endowment policies, delivered or issued for delivery in this state shall contain provisions which are not less favorable to the policyholder than the following: [Variable life insurance policies subject to this regulation which provide for policy loans shall contain a policy loan interest rate provision which complies with KRS 304.15-115.]*

(a) *A provision for policy loans after the policy has been in force for three (3) full years which provides the following:*

1. *At least seventy-five (75) percent of the policy's cash surrender value may be borrowed.*

2. *The amount borrowed shall bear interest at a rate not to exceed that permitted by KRS 304.15-115.*

3. *Any indebtedness shall be deducted from the proceeds payable on death.*

4. *Any indebtedness shall be deducted from the cash surrender value upon surrender or in determining any non-forfeiture benefit.*

5. *For scheduled premium policies, whenever the indebtedness exceeds the cash surrender value, the insurer shall give notice of any intent to cancel the policy if the excess indebtedness is not repaid within thirty-one (31) days after the date of mailing of such notice. For flexible premium policies, whenever the total charges authorized by the policy that are necessary to keep the policy in force until the next following policy processing day exceed the amounts available under the policy to pay such charges, a report must be sent to the policyholder containing the information specified by Section 8(3) of this regulation.*

6. *The policy may provide that if, at any time, so long as premiums are duly paid, the variable death benefit is less than it would have been if no loan or withdrawal had ever been made, the policyholder may increase such variable death benefit up to what it would have been if there had been no loan or withdrawal by paying an amount not exceeding 110 percent of the corresponding increase in cash value and by furnishing such evidence of insurability as the insurer may request.*

7. *The policy may specify a reasonable minimum amount which may be borrowed at any time but such minimum shall not apply to any automatic premium loan provision.*

8. *No policy loan provision is required if the policy is*

under extended insurance non-forfeiture option.

9. The policy loan provisions shall be constructed so that variable life insurance policyholders who have not exercised such provisions are not disadvantaged by the exercise thereof.

10. Amounts paid to the policyholders upon the exercise of any policy loan provisions shall be withdrawn from the separate account and shall be returned to the separate account upon repayment except that a stock insurer may provide the amounts for policy loans from the general account.

(5) Other policy provisions. The following provisions may in substance be included in a variable life insurance policy or related form delivered or issued for delivery in this state:

(a) An exclusion for suicide within two (2) years of the issue date of the policy; provided, however, that to the extent of the increased death benefits only, the policy may provide an exclusion for suicide within two (2) years of any increase in death benefits which result from an application of the owner subsequent to the policy issue date;

(b) Incidental insurance benefits may be offered on a fixed or variable basis;

(c) Policies issued on a participating basis shall offer to pay dividend amounts in cash. In addition, such policies may offer the following dividend options:

1. The amount of the dividend may be credited against premium payments;

2. The amount of the dividend may be applied to provide amounts of additional fixed or variable benefit life insurance;

3. The amount of the dividend may be deposited in the general account at a specified minimum rate of interest;

4. The amount of the dividend may be applied to provide paid-up amounts of fixed benefit one (1) year term insurance;

5. The amount of the dividend may be deposited as a variable deposit in a separate account.

(d) A provision allowing the policyholder to elect in writing in the application for the policy or thereafter an automatic premium loan on a basis not less favorable than that required of policy loans under subsection (4) of this section, except that a restriction that no more than two (2) consecutive premiums can be paid under this provision may be imposed;

(e) A provision allowing the policyholder to make partial withdrawals;

(f) Any other policy provision approved by the commissioner.

Section 4. Reserve Liabilities for Variable Life Insurance. (1) Reserve liabilities for variable life insurance policies shall be established under the standard valuation law in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

(2) For scheduled premium policies, reserve liabilities for the guaranteed minimum death benefit shall be the reserve needed to provide for the contingency of death occurring when the guaranteed minimum death benefit exceeds the death benefit that would be paid in the absence of the guarantee, and shall be maintained in the general account of the insurer and shall not be less than the greater of the following minimum reserve:

(a) The aggregate total of the term costs, if any, covering a period of one (1) full year from the valuation date, of the guarantee on each variable life insurance contract, assuming an immediate one-third (1/3) depreciation in the

current value of the assets in the separate account followed by a net investment return equal to the assumed investment rate; or

(b) The aggregate total of the "attained age level" reserved on each variable life insurance contract. The "attained age level" reserve on each variable life insurance contract shall not be less than zero and shall equal the "residue," as described in subparagraph 1 of this paragraph, of the prior year's "attained age level" reserve on the contract, with any such "residue" increased or decreased by a payment computed on an attained age basis as described in subparagraph 2 of this paragraph.

1. The "residue" of the prior year's "attained age level" reserve on each variable life insurance contract shall not be less than zero and shall be determined by adding interest at the valuation interest rate to such prior year's reserve, deducting the tabular claims based on the "excess," if any, of the guaranteed minimum death benefit over the death benefit that would be payable in the absence of such guarantee, and dividing the net result by the tabular probability of survival. The "excess" referred to in the preceding sentence shall be based on the actual level of death benefits that would have been in effect during the preceding year in the absence of the guarantee, taking appropriate account of the reserve assumptions regarding the distribution of death claim payments over the year.

2. The payment referred to in subsection (2)(b) of this section shall be computed so that the present value of a level payment of that amount each year over the future premium paying period of the contract is equal to (A) minus (B) minus (C), where (A) is the present value of the future guaranteed minimum death benefits, (B) is the present value of the future death benefits that would be payable in the absence of such guarantee, and (C) is any "residue" as described in subparagraph 1 of this paragraph, of the prior year's "attained age level" reserve on such variable life insurance contract. If the contract is paid-up, the payment shall equal (A) minus (B) minus (C). The amounts of the future death benefits referred to in (B) shall be computed assuming a net investment return of the separate account which may differ from the assumed investment rate and/or the valuation interest but in no event may exceed the maximum interest rate permitted for the valuation of life contracts.

(c) The valuation interest rate and mortality table used in computing the two (2) minimum reserves described in paragraphs (a) and (b) of this subsection shall conform to permissible standards for the valuation of life insurance contracts. In determining such minimum reserve, the company may employ suitable approximations and estimates, including but not limited to groupings and averages.

(3) (a) For flexible premium policies, reserve liabilities for any guaranteed minimum death benefit shall be maintained in the general account of the insurer and shall not be less than the aggregate total of the term costs, if any, covering the period for in the guarantee not otherwise provided for by the reserves held in the separate account assuming an immediate one-third (1/3) depreciation in the current value of the assets of the separate account followed by a net investment return equal to the valuation interest rate.

(b) The valuation interest rate and mortality table used in computing this additional reserve, if any, shall conform to permissible standards for the valuation of life insurance contracts. In determining such minimum reserve, the company may employ suitable approximations and estimates, including but not limited to groupings and averages.

(4) Reserve liabilities for all fixed incidental insurance

benefits and any guarantees associated with variable accidental insurance benefits shall be maintained in the general account and reserve liabilities for all variable aspects of the variable incidental insurance benefits shall be maintained in a separate account, in amounts determined in accordance with the actuarial procedures appropriate to such benefit.

Section 5. Separate Accounts. The following requirements apply to the establishment and administration of variable life insurance separate accounts by any domestic insurer:

(1) Establishment and administration of separate accounts. Any domestic insurer issuing variable life insurance shall establish one or more separate accounts pursuant to KRS 304.15-390.

(a) If no law or other regulation provides for the custody of separate account assets and if such insurer is not the custodian of such separate account assets, all contracts for custody of such assets shall be in writing and the commissioner shall have the authority to review and approve of both the terms of any such contract and the proposed custodian prior to the transfer of custody.

(b) Such insurer shall not without prior written approval of the commissioner employ in any material connection with the handling of separate account assets any person who:

1. Within the last ten (10) years has been convicted of any felony or a misdemeanor arising out of such person's conduct involving embezzlement, fraudulent conversion, or misappropriation of funds or securities or involving violation of Sections 1341, 1342, or 1343 of Title 18, United States Code; or

2. Within the last ten (10) years has been found by any state regulatory authority to have violated or has acknowledged violation of any provision of any state insurance law involving fraud, deceit, or knowing misrepresentation; or

3. Within the last ten (10) years has been found by federal or state regulatory authorities to have violated or has acknowledged violation of any provision of federal or state securities laws involving fraud, deceit, or knowing misrepresentation.

(c) All persons with access to the cash, securities, or other assets of the separate account shall be under bond in the amount of not less than:

Total Assets Under \$100,000		Minimum Amount of Bond \$10,000	
More Than:	But Not More Than:		
\$ 100,000	\$ 600,000	\$ 10,000	plus 4% of assets over \$ 100,000
600,000	1,200,000	30,000	plus 3 1/3% of assets over 600,000
1,200,000	3,200,000	50,000	plus 3 1/2% of assets over 1,200,000
3,200,000	4,450,000	100,000	plus 2% of assets over 3,200,000
4,450,000	6,450,000	125,000	plus 1 1/4% of assets over 4,450,000
6,450,000	90,450,000	150,000	plus 5/8% of assets over 6,450,000
90,450,000	350,450,000	675,000	plus 3/8% of assets over 90,450,000
50,450,000	1,070,450,000	1,625,000	plus 3/16% of assets over 350,450,000
70,450,000		3,075,000	plus 3/32% of assets over 1,070,450,000

(d) The assets of such separate accounts shall be valued at least as often as variable benefits are determined but in any event at least monthly.

(2) Amounts in the separate account. The insurer shall maintain in each separate account assets with a value at least equal to the greater of the valuation reserves for the variable portion of the variable life insurance policies or the benefit base for such policies.

(3) Investments by the separate account.

(a) No sale, exchange, or other transfer of assets may be made by an insurer or any of its affiliates between any of its separate accounts or between any other investment account and one (1) or more of its separate accounts unless:

1. In case of transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the policies with respect to the separate account to which the transfer is made; and

2. Such transfer, whether into or from a separate account, is made by a transfer of cash; but other assets may be transferred if approved by the commissioner in advance.

(b) The separate account shall have sufficient net investment income and readily marketable assets to meet anticipated withdrawals under policies funded by the account.

(4) Limitations on ownership.

(a) A separate account shall not purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal and interest by the United States, if immediately after such purchase or acquisition the value of such investment, together with prior investments of such account in such security valued as required by these regulations, would exceed ten (10) percent of the value of the assets of the separate account. The commissioner may waive this limitation in writing if he believes such waiver will not render the operation of the separate account hazardous to the public or the policyholders in this state.

(b) No separate account shall purchase or otherwise acquire the voting securities of any issuer if as a result of such acquisition the insurer and its separate accounts in the aggregate, will own more than ten (10) percent of the total issued and outstanding voting securities of such issuer. The commissioner may waive this limitation in writing if he believes such waiver will not render the operation of the separate account hazardous to the public or the policyholders in this state or jeopardize the independent operation of the issuer of such securities.

(c) The percentage limitation specified in paragraph (a) of this subsection shall not be construed to preclude the investment of the assets of separate accounts in shares of investment companies registered pursuant to the Investment Company Act of 1940 or other pools of investment assets if the investments and investment policies of such investment companies or asset pools comply substantially with the provisions of subsection (3) of this section and other applicable portions of the regulation.

(5) Valuation of separate account assets. Investments of the separate account shall be valued at their market value on the date of valuation, or at amortized cost if it approximates market value.

(6) Separate account investment policy. The investment policy of a separate account operated by a domestic insurer filed under Section 2(2) of this regulation shall not be changed without first filing such change with the commissioner.

(a) Any change filed pursuant to this section shall be effective sixty (60) days after the date it was filed with the

commissioner, unless the commissioner notifies the insurer before the end of such sixty (60) day period of his disapproval of the proposed change. At any time the commissioner may, after notice and public hearing, disapprove any change that has become effective pursuant to this section.

(b) The commissioner may disapprove the change if he determines that the change would be detrimental to the interests of the policyholders participating in such separate accounts.

(7) Charges against separate account. The insurer must disclose in writing, prior to or contemporaneously with delivery of the policy, all charges that may be made against the separate account, including but not limited to the following:

(a) Taxes or reserves for taxes attributable to investment gains and income of the separate account;

(b) Actual cost of reasonable brokerage fees and similar direct acquisition and sale costs incurred in the purchase or sale of separate account assets;

(c) Actuarially determined costs of insurance (tabular costs) and the release of separate account liabilities;

(d) Charges for administrative expenses and investment management expenses, including internal costs attributable to the investment management of assets of the separate account;

(e) A charge, at a rate specified in the policy, for mortality and expense guarantees;

(f) Any amounts in excess of those required to be held in the separate accounts;

(g) Charges for incidental insurance benefits.

(8) Standards of conduct. Every insurer seeking approval to enter into the variable life insurance business in this state shall adopt by formal action of its board of directors a written statement specifying the standards of conduct of the insurer, its officers, directors, employees, and affiliates with respect to the purchase or sale of investments of separate accounts. Such standards of conduct shall be binding on the insurer and those to whom it refers. A code or codes of ethics meeting the requirements of Section 17(j) under the Investment Company Act of 1940 and applicable rules and regulations thereunder shall satisfy the provisions of this section.

(9) Conflicts of interest. Rules under any provision of the insurance laws of this state or any regulation applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate account's committee or other similar body.

(10) Investment advisory services to a separate account. An insurer shall not enter into a contract under which any person undertakes, for a fee, to regularly furnish investment advice to such insurer with respect to its separate account maintained for variable life insurance policies unless:

(a) The person providing such advice is registered as an investment advisor under the Investment Advisor Act of 1940; or

(b) The person providing such advice is an investment manager under the Employee Retirement Income Security Act of 1974 with respect to the assets of each employee benefit plan allocated to the separate account; or

(c) The insurer has filed with the commissioner and continues to file annually the following information and statements concerning the proposed advisor:

1. The name and form of organization, state of organization, and its principal place of business;

2. The names and addresses of its partners, officers, directors, and persons performing similar functions or, if

such an investment advisor be an individual, of such individual;

3. A written standard of conduct complying in substance with the requirements of subsection (8) of this section which has been adopted by the investment advisor and is applicable to the investment advisor, its officers, directors, and affiliates;

4. A statement provided by the proposed advisor as to whether the advisor or any person associated therewith:

a. Has been convicted within ten (10) years of any felony or misdemeanor arising out of such person's conduct as an employee, salesman, officer or director of an insurance company, a banker, an insurance agent, a securities broker, or an investment advisor involving embezzlement, fraudulent conversion, or misappropriation of funds or securities, or involving the violation of Sections 1341, 1342, or 1343 of Title 18 of United States Code;

b. Has been permanently or temporarily enjoined by an order, judgment, or decree of any court of competent jurisdiction from acting as an investment advisor, underwriter, broker, or dealer, or as an affiliated person or as an employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity;

c. Has been found by federal or state regulatory authorities to have willfully violated or have acknowledged willful violation of any provision of federal or state securities laws or state insurance laws or of any rule or regulation under any such laws; or

d. Has been censured, denied an investment advisor registration, had a registration as an investment advisor revoked or suspended, or been barred or suspended from being associated with an investment advisor by order of federal or state regulatory authorities; and

(d) Such investment advisory contract shall be in writing and provide that it may be terminated by the insurer without penalty to the insurer or the separate account upon no more than sixty (60) days' written notice to the investment advisor.

(e) The commissioner may, after notice and opportunity for hearing, by order require such investment advisory contract to be terminated if he deems continued operation thereunder to be hazardous to the public or the insurer's policyholders.

Section 6. Information Furnished to Applicants. An insurer delivering or issuing for delivery in this state any variable life insurance policies shall deliver to the applicant for such policy, and obtain a written acknowledgement of receipt from such applicant coincident with or prior to the execution of the application, the following information. The requirements of this section shall be deemed to have been satisfied to the extent that a disclosure containing information required by this section is delivered, either in the form of: a prospectus included in the requirements of the Securities Act of 1933 and which was declared effective by the Securities Exchange commission; or all information and reports required by the Employee Retirement Income Security Act of 1974 if the policies are exempted from the registration requirements of the Securities Act of 1933 pursuant to Section 3(a)(2) thereof.

(1) A summary explanation, in non-technical terms, of the principal features of the policy, including a description of the manner in which the variable benefits will reflect the investment experience of the separate account and the factors which affect such variation. Such explanation must include notices of the provision required by Sections 3(3)(a)5 and 3(3)(f) of this regulation.

(2) A statement of the investment policy of the separate account, including:

(a) A description of the investment objectives intended for the separate account and the principal types of investments intended to be made; and

(b) Any restrictions or limitations on the manner in which the operations of the separate account are intended to be conducted.

(3) A statement of the net investment return of the separate account for each of the last ten (10) years or such lesser period as the separate account has been in existence.

(4) A statement of the charges levied against the separate account during the previous year.

(5) A summary of the method to be used in valuing assets held by the separate account.

(6) A summary of the federal income tax aspects of the policy applicable to the insured, the policyholder and the beneficiary.

(7) Illustrations of benefits payable under the variable life insurance contract. Such illustrations shall be prepared by the insurer and shall not include projections of past investment experience into the future or attempted predictions of future investment experience, provided that nothing contained herein prohibits use of hypothetical assumed rates of return to illustrate possible levels of benefits if it is made clear that such assumed rates are hypothetical only.

Section 7. Applications. The application for a variable life insurance policy shall contain:

(1) A prominent statement that the death benefit may be variable or fixed under specified conditions;

(2) A prominent statement that cash values may increase or decrease in accordance with the experience of the separate account (subject to any specified minimum guarantees); and

(3) Questions designed to elicit information which enables the insurer to determine the suitability of variable life insurance for the applicant.

Section 8. Reports to Policyholders. Any insurer delivering or issuing for delivery in this state any variable life insurance policies shall mail to each variable life insurance policyholder at his or her last known address the following reports:

(1) Within thirty (30) days after each anniversary of the policy, a statement or statements of the cash surrender value, death benefit, any partial withdrawal or policy loan, any interest charge, any optional payments allowed pursuant to Section 3(4) of this regulation under the policy computed as of the policy anniversary date. Provided, however, that such statement may be furnished within thirty (30) days after a specified date in each policy year so long as the information contained therein is computed as of a date not more than sixty (60) days prior to the mailing of such notice. This statement shall state that, in accordance with the investment experience of the separate account, the cash values and the variable death benefit may increase or decrease, and shall prominently identify any value described therein which may be recomputed prior to the next statement required by this section. If the policy guarantees that the variable death benefit on the next policy anniversary date will not be less than the variable death benefit specified in such statement, the statement shall be modified to so indicate. For flexible premium policies, the report must contain a reconciliation of the change since the previous report in cash value and cash surrender value, if different, because of payments made (less deductions for expense charges), withdrawals, investment experience, insurance charges, and any other charges made

against the cash value. In addition, the report must show the projected cash value and cash surrender value, if different, as of one (1) year from the end of the period covered by the report assuming that:

(a) Planned periodic premiums, if any, are paid as scheduled;

(b) Guaranteed costs of insurance are deducted; and

(c) The net return is equal to the guaranteed rate or, in the absence of a guaranteed rate, is not greater than zero. If the projected value is less than zero, a warning message must be included that states that the policy may be in danger of terminating without value in the next twelve (12) months unless additional premium is paid.

(2) Annually, a statement or statements including:

(a) A summary of the financial statement of the separate account based on the annual statement last filed with the commissioner;

(b) The net investment return of the separate account for the last year and, for each year after the first, a comparison of the investment rate of the separate account during the last year with the investment rate during prior years, up to a total of not less than five (5) years when available;

(c) A list of investments held by the separate account as of a date not earlier than the end of the last year for which an annual statement was filed with the commissioner;

(d) Any charges levied against the separate account during the previous year;

(e) A statement of any change, since the last report, in the investment objective and orientation of the separate account, in any investment restriction or material quantitative or qualitative investment requirement applicable to the separate account or in the investment advisor of the separate account.

(3) For flexible premium policies, a report must be sent to the policyholder in the amounts available under the policy on any policy processing day to pay the charges authorized by the policy are less than the amount necessary to keep the policy in force until the next following policy processing day. The report must indicate the minimum payment required under the terms of the policy to keep it in force and the length of the grace period for payment of such amount.

Section 9. Foreign Companies. If the law or regulation in the place of domicile of a foreign company provides a degree of protection to the policyholders and the public which is substantially similar to that provided by these regulations, the commissioner to the extent deemed appropriate by him in his discretion, may consider compliance with such law or regulation as compliance with this regulation.

Section 10. (1) Qualifications of Agents for the Sale of Variable Life Insurance. No person shall be or act as an agent for the solicitation or sale of variable life insurance except while duly appointed and licensed under the Kentucky Insurance Code as a life insurance agent with respect to the insurer, and while meeting federal law requirements for dealing in securities.

(2) *Any person doing business as agent under this section shall immediately report to the commissioner:*

(a) *The imposition of any disciplinary sanction (including but not limited to suspension or revocation of membership, suspension, revocation, or denial of registration) imposed upon such person by any national securities exchange, national securities association, or any federal, state, or territorial agency with jurisdiction over securities, variable annuities, or variable life insurance.*

(b) *Any judgment or injunction entered against such person on the basis of conduct deemed to have involved unfair, false, misleading, or deceptive practices, or violation of any securities law (whether statute or regulation).*

Section 11. Severability. If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 12. Effective Date. This regulation shall become effective upon completion of its review pursuant to KRS Chapter 13A.

GIL McCARTY, Commissioner
M. H. WILSON, Secretary

APPROVED BY AGENCY: September 4, 1984

FILED WITH LRC: September 5, 1984 at 9:30 a.m.

CABINET FOR HUMAN RESOURCES Department for Health Services Amended After Hearing

902 KAR 1:340. State health plan.

RELATES TO: KRS Chapters 194 and 216B

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Health Planning and Resources Development Act, 42 USC 300 M-3 requires participating states to adopt by procedures set out in the United States Code, a state health plan. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the proper administration of the cabinet and its programs. The Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board utilizes the state health plan in review of applications for certificates of need to establish and modify health services and health facilities in the Commonwealth. The function of this regulation is to assist in the inventory of existing health resources and to set planning goals and guidelines.

Section 1. The Kentucky State Health Plan 1983-1986, was adopted by the State Health Planning Council and approved by Governor John Y. Brown, Jr., on August 15, 1983, as the document that sets out planning policies and guidelines for use by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board. A copy of the Kentucky State Health Plan is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621 and is open and available for public inspection during normal business hours.

Section 2. The following portions of the Kentucky State Health Plan are hereby adopted by reference as regulations of the Cabinet for Human Resources as if fully set out herein:

(1) Acute care policies p. 25-32, with the exception of the following:

(a) Policies relating to excess capacity and utilization, p. 28.

(b) Policies relating to the containment of capital expenditures, p. 30.

(c) Policies relating to regionalization, p. 30.

(2) Long term care policies, p. 32-35.

[(3) Health personnel policies, p. 36-41.]

(3) [(4)] Planning criteria and review standards, p. 42-62 with the exception of the following:

(a) *Acute care review standards numbers 8, 9, 10, and 14, page 43.*

(b) [(a)] Delicensure of excess capacity, p. 47.

(c) [(b)] Hospital capital expenditure limit, p. 48.

(d) [(c)] Tertiary and medical service centers designation, p. 49.

(4) [(5)] Glossary.

C. HERNANDEZ, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 5, 1984

FILED WITH LRC: September 5, 1984 at noon.

Proposed Amendments

LEGISLATIVE RESEARCH COMMISSION (Proposed Amendment)

1 KAR 3:005. Capital Construction and Equipment Purchase Oversight Committee; procedure; records.

RELATES TO: KRS 45.750 to 45.800, Executive Order 80-285, HB 931 (1980 Regular Session)

PURSUANT TO: KRS 7.320, 13A.350 [13.082]

NECESSITY AND FUNCTION: Implementation of review procedure established under KRS 45.750 to 45.800, Executive Order 80-285, HB 931 of the 1980 Regular Session.

Section 1. The following governs only those capital construction projects estimated to cost \$200,000 or more, and those major items of equipment estimated to cost \$50,000 or more, as provided by KRS 45.750 to 45.800.

Section 2. A permanent subcommittee of the Legislative Research Commission, to be known as the Capital Construction and Equipment Purchase Oversight Committee (hereinafter, "committee"), shall be composed of seven (7) members which shall include members of the minority party as nearly proportional to their membership in the General Assembly as mathematically possible.

(1) The Legislative Research Commission shall appoint from the membership of the General Assembly to the committee:

(a) Four (4) members from the House of Representatives; and

(b) Three (3) members from the Senate.

(2) A quorum shall require at least four (4) members present and the vote shall be by majority.

(3) The committee shall meet at least monthly at such time and place as the chairman may determine.

(4) The members of the committee shall serve a term of two (2) years.

(5) The members so appointed shall elect one (1) of their members to serve as chairman.

(6) A vacancy shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy.

Section 3. For any action or proposed action on a project to be reviewed by the committee at its next regularly scheduled meeting, it must be submitted to the Legislative Research Commission on or before the *fifteen* [last] day of the month preceding the meeting. All projects received

after the *fifteenth* [end] of the month will be deferred to the next regularly scheduled meeting.

Section 4. Transfers from the capital construction and equipment purchase contingency fund to the allotment account of an authorized project of an amount greater than fifteen (15) percent but not greater than twenty-five (25) percent of the estimated cost of that project shall comply with the following procedure:

(1) Prior to the transfer the [Department of] Finance and Administration Cabinet shall present the proposed transfer to the committee for review.

(2) Information presented to the committee for its review of the proposed transfer shall include:

(a) The amount of the proposed transfer;

(b) Documentation of the necessity for the proposed transfer;

(c) The amount expended on the project prior to the current biennium;

(d) The amount expended on the project during the current biennium;

(e) All alterations made in the project since its consideration by the General Assembly during the most recent regular session; and

(f) All alterations planned for the project since its consideration by the General Assembly during the most recent regular session.

(3) Within thirty (30) days after submission to the committee of a proposed transfer under Section 3 of this regulation, the committee shall determine whether the amount of the proposed transfer:

(a) Is reasonable;

(b) Is consistent with KRS 45.770;

(c) Is necessary;

(d) Whether alterations made in the project materially change the project as considered and authorized by the General Assembly; and

(e) Whether alterations planned for the project will materially change the project as considered and authorized by the General Assembly.

(4) The Legislative Research Commission shall promptly transmit the committee's findings and determination concerning a proposed transfer under Section 3 of this regulation to the [Department of] Finance and Administration Cabinet.

(5) The [Department of] Finance and Administration Cabinet shall promptly inform the committee in writing of

its action on the proposed transfer in light of the committee's findings and determination.

(6) A determination or finding by the committee that a proposed transfer under Section 3 of this regulation:

- (a) Is not reasonable;
- (b) Is inconsistent with KRS 45.770;
- (c) Is unnecessary; or
- (d) That an alteration already made in or planned for a project materially changes the project as considered and approved by the General Assembly, shall be transmitted, along with the written response to the committee's findings or determination by the [Department of] Finance and Administration Cabinet to the appropriate interim joint committee, and to the General Assembly when it next convenes, by the Legislative Research Commission.

Section 5. Transfer of an amount greater than twenty-five (25) percent of the estimated cost of a project from the capital construction and equipment purchase contingency fund to the allotment account of that project shall not be made unless the cost overrun is due to an unforeseen decision by a federal or state court or regulatory agency.

(1) Prior to the transfer the [Department of] Finance and Administration Cabinet shall present the proposed transfer to the committee for review.

(2) Information presented to the committee for its review of the proposed transfer shall include:

- (a) The amount of the proposed transfer;
- (b) Documentation of the necessity for the proposed transfer;
- (c) The amount expended on the project prior to the current biennium;
- (d) The amount expended on the project during the current biennium;
- (e) All alterations made in the project since its consideration by the General Assembly during the most recent regular session;
- (f) All alterations planned for the project since its consideration by the General Assembly during the most recent regular session; and
- (g) Written certification by the Commissioner of the Department [Bureau] of Facilities Management of the [Department of] Finance and Administration Cabinet that the cost overrun was due to an unforeseen decision by a federal or state court or regulatory agency.

Section 6. An amount no greater than ten (10) percent of the estimated cost of a major item of equipment as approved by the General Assembly may be transferred from the capital construction and equipment purchase contingency fund to the allotment account of that item of equipment.

(1) Prior to the transfer the [Department of] Finance and Administration Cabinet shall present the proposed transfer to the committee for review.

(2) Information presented to the committee for its review of the proposed transfer shall include:

- (a) The amount of the proposed transfer;
- (b) Documentation of the necessity for the proposed transfer;
- (c) The amount expended on the project prior to the current biennium;
- (d) The amount expended on the project during the current biennium;
- (e) All alterations made in the item of equipment since its consideration by the General Assembly during the most recent regular session; and
- (f) All alterations planned for the item of equipment

since its consideration by the General Assembly during the most recent regular session.

(3) Within thirty (30) days after submission to the committee of a proposed transfer under Section 3 of this regulation, the committee shall determine whether the amount of the proposed transfer:

- (a) Is reasonable;
- (b) Is consistent with KRS 45.770;
- (c) Is necessary;
- (d) Whether alterations made in the item of equipment materially change the project as considered and authorized by the General Assembly; and
- (e) Whether alterations made in the item of equipment will materially change the item of equipment as considered and authorized by the General Assembly.

(4) The Legislative Research Commission shall promptly transmit the committee's findings and determination concerning a proposed transfer under Section 3 of this regulation to the [Department of] Finance and Administration Cabinet.

(5) The [Department of] Finance and Administration Cabinet shall promptly inform the committee in writing of its action on the proposed transfer in light of the committee's findings and determination.

(6) A determination or finding by the committee that a proposed transfer under Section 3 of this regulation:

- (a) Is not reasonable;
- (b) Is inconsistent with KRS 45.770;
- (c) Is unnecessary; or
- (d) That an alteration already made in or planned for an item of equipment materially changes the item of equipment as considered and approved by the General Assembly, shall be transmitted, along with the written response of the [Department of] Finance and Administration Cabinet to the committee's findings or determination, to the appropriate interim joint committee, and to the General Assembly when it next convenes, by the Legislative Research Commission.

Section 7. An amount in excess of ten (10) percent of the estimated cost of a major item of equipment shall not be transferred unless it is due to an unforeseen decision by a federal or state court or regulatory agency.

(1) Prior to the transfer the [Department of] Finance and Administration Cabinet shall present the proposed transfer to the committee for review.

(2) Information presented to the committee for its review of the proposed transfer shall include:

- (a) The amount of the proposed transfer;
- (b) Documentation of the necessity for the proposed transfer;
- (c) The amount expended on the project prior to the current biennium;
- (d) The amount expended on the project during the current biennium;
- (e) All alterations made in the project since its consideration by the General Assembly during the most recent regular session;
- (f) All alterations planned for the project since its consideration by the General Assembly during the most recent regular session; and
- (g) Written certification by the Commissioner of the Department [Bureau] of Facilities Management of the [Department of] Finance and Administration Cabinet that the cost overrun is due to an unforeseen decision by a federal or state court or regulatory agency.

Section 8. A transfer from emergency repair, maintenance and replacement fund to the allotment ac-

count of an emergency repair, maintenance or replacement project shall be reported to the committee by the [Department of] Finance and Administration Cabinet within thirty (30) days of the transfer. This report shall include certification and explanation of the emergency by the Secretary of the [Department of] Finance and Administration Cabinet.

Section 9. Each purchase of a major item of equipment to be used for medical, scientific or research purposes that is not specifically listed in the biennial budget report and an appropriation act shall be reported to the committee within thirty (30) days after the purchase. Each report shall include:

- (1) A description of the item;
- (2) The purpose for which the item is to be used;
- (3) A statement of the reasons the purchase was necessary;
- (4) The amount expended for the purchase of the item; and
- (5) The source or sources of the funds expended for the purchase of the item.

Section 10. The committee shall make findings and recommendations on the costs of state capital construction projects based upon a review of:

- (1) Charges to the state by contractors;
- (2) Land acquisition costs;
- (3) Costs and availability of materials;
- (4) Cost and availability of labor; and
- (5) Laws, regulations and purchasing procedures governing state projects, but not applicable to private sector construction project.

Section 11. The Legislative Research Commission shall maintain reports of:

- (1) Purchases of major items of equipment used for medical, scientific or research equipment;
- (2) Transfers under Section 8 of this regulation;
- (3) Transfers from the emergency repair, maintenance and replacement fund; and
- (4) Committee findings or recommendations relating to these purchases and transfers.

Section 12. Within thirty (30) days after the final acceptance of a project or major item of equipment, the available balance in the project or equipment account shall be transferred to the appropriate but unallotted account within the capital construction fund. The account shall be closed and within thirty (30) days following the closing of the account the [Department of] Finance and Administration Cabinet shall report to the committee:

- (1) Project or item account number and a brief description of the project or item;
- (2) Date of final acceptance;
- (3) Available balance in account on date of final acceptance;
- (4) Amount transferred from account to appropriate but unallotted account; and
- (5) The date account was closed.

Section 13. Within thirty (30) days after purchase or other acquisition of a major item of equipment under a lease-purchase contract or agreement, or any arrangement equivalent to a lease-purchase contract or agreement, the [Department of] Finance and Administration Cabinet or any agency division, bureau of other unit of state government involved in such a purchase, shall report to the committee:

- (1) A description of the equipment purchased;
- (2) Date of purchase;

(3) Unit of state government for which the equipment was purchased, will be used, or by which the equipment was purchased;

(4) Copies of the voucher, dealer invoice, department inventory log number; and

(5) Where the equipment will be used or its permanent location.

Section 14. Upon the completion of the initial draft of a prospectus for the issuance of bonds to be funded by the Economic Development Bond Authorization established by HB 931 (Part V, 1980 regular session), the prospectus shall be submitted to the committee.

(1) Information submitted to the committee under this section shall include a list of projects to be covered by the issuance of bonds.

(2) Notice of the termination of a project or substitution of a project reviewed by the committee under this section shall be forwarded to the committee.

Section 15. Capital construction projects at institutions of higher education that do not involve state or federal funds, and are proposed to be authorized between regular sessions of the General Assembly shall be submitted to the committee within thirty (30) days of the approval of these projects by the Council on Higher Education and the [Department of] Finance and Administration Cabinet. Information submitted under this section shall include:

- (1) Complete description of the project;
- (2) Source of funding; and
- (3) Source of operating and maintenance expenses after completion.

Section 16. Funds advanced to projects authorized to be financed by bond proceeds and funds advanced to finance feasibility studies for projects as provided by HB 931 shall be reported to the committee. Within thirty (30) days of the advancement of these funds a report shall be made to the committee to include:

- (1) Copy of the agency request;
- (2) Estimated cost of the feasibility study or project;
- (3) Amount of bond issue and date of issue; and
- (4) Method of financing operating costs of projects.

Section 17. The following information concerning projects within the Governor's recommended program approved by the General Assembly shall be forwarded to the committee within thirty (30) days of determination by the appropriate agency and the [Department of] Finance and Administration Cabinet.

(1) The scope, estimated cost, starting date for construction, completion date, and the date set for bids on the project; and

(2) Quarterly reports stating the percentage of completion of each project and the cost to date.

Vic Hellard, Jr., Director
Sen. Joseph W. Prather, Co-Chairman
Rep. Bobby H. Richardson, Co-Chairman

APPROVED BY AGENCY: August 22, 1984

FILED WITH LRC: August 22, 1984 at 1 p.m.

PUBLIC HEARING SCHEDULED: A public hearing will be held on October 23, 1984, at 10 a.m., in Room 107 of the Capitol Annex. Those interested in attending this meeting shall contact by October 18, 1984, the following office: Joyce Morse, Committee Staff Administrator, Legislative Research Commission, Room 101-A, Capitol Annex, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Joyce A. Morse

- (1) Type and number of entities affected:
 - (a) Direct and indirect costs or savings to those affected: N/A
 1. First year:
 2. Continuing costs or savings:
 3. Additional factors increasing or decreasing costs (note any effects upon competition):
 - (b) Reporting and paperwork requirements: N/A
 - (2) Effects on the promulgating administrative body:
 - (a) Direct and indirect costs or savings:
 1. First year:
 2. Continuing costs or savings:
 3. Additional factors increasing or decreasing costs:
 - (b) Reporting and paperwork requirements:
 - (3) Assessment of anticipated effect on state and local revenues: N/A
 - (4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
 - (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
 - (a) Necessity of proposed regulation if in conflict:
 - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
 - (6) Any additional information or comments:

Tiering:

Was tiering applied? No. N/A

AGRICULTURAL EXPERIMENT STATION
 Division of Regulatory Services
 (Proposed Amendment)

12 KAR 5:020. Testing.

RELATES TO: KRS 260.775 to 260.845, 260.992

PURSUANT TO: KRS 260.800, 260.825

NECESSITY AND FUNCTION: The Director of the Agricultural Experiment Station, University of Kentucky, is charged with the enforcement of KRS Chapter 260 to regulate milk testers. The function of this regulation is to provide uniform standards, approved procedures, and equipment for analysis of milk components by licensed testers [the "Babcock" and "Milkotester" methods of milk fat testing by licensed milk testers].

Section 1. The "Babcock Test," as described in the most recent edition of "Methods of Analysis—Association of Official Analytical Chemists" [described as method 16.056-16.057 of the official methods of analysis of the Association of Official Analytical Chemists, 12th edition 1975] is declared [to be] an official method for use in Kentucky and shall be performed in accordance with procedures approved by the director or his agents for the analysis of milk fat. [The approved procedures are available on request.]

Section 2. The "Milkotester" method, as described in the most recent edition of "Methods of Analysis—Association of Official Analytical Chemists," [described as method 16.060-16.064 of the official methods of analysis of the Association of Official Analytical Chemists, 12th edition 1975] is declared [to be] an official method for use in Kentucky and shall be performed in accordance with procedures approved by the director or his

agents for the analysis of milk fat. [The approved procedures are available upon request.]

Section 3. The "Infrared" method, as described in the most recent edition of "Methods of Analysis—Association of Official Analytical Chemists" is declared an official method for use in Kentucky and shall be performed in accordance with procedures approved by the director or his agents for the analysis of milk fat, protein, lactose, and total solids components of raw milk. Solids not fat (SNF) to be determined as the difference between total solids and milk fat as described in the most recent edition of "Methods of Analysis—Association of Official Analytical Chemists." [(1) Before a license to test will be issued to any person it is necessary that he or she satisfactorily pass an examination on the Babcock test if this is the method used for milk fat analysis.]

[(2) Before a license to test will be issued to any person using the Milkotester method of milk fat analysis it will be necessary that he or she satisfactorily pass an examination on both the Babcock and Milkotester methods of milk fat analysis.]

Section 4. (1) A person must satisfactorily pass an examination issued by the director or his agents on the Babcock method of milk fat analysis prior to becoming a licensed tester using the Babcock method.

(2) A person must satisfactorily pass an examination issued by the director or his agents on both the Babcock and Milkotester methods of milk fat analysis prior to becoming a licensed tester for the Milkotester method.

(3) A person must satisfactorily pass an examination issued by the director or his agents on both the Babcock and "Infrared" methods of analysis prior to becoming a licensed tester for the "Infrared" method of component analysis.

(4) [(3)] In order that new operators may legally test until such time as they may appear for examination, they may secure a temporary permit in lieu of license. To secure this permit it is necessary that application be made on the form furnished by the Agricultural Experiment Station and fee called for on the application form paid. Licenses will be issued to holders of permits who pass satisfactory examinations. Testers failing on their first examination may have their permits extended one (1) time only. Permits may be extended if a legitimate excuse for not appearing is received by the Agricultural Experiment Station within five (5) days after the date of the examination at which the holder was notified to appear. All other permits of testers notified for examination become null and void and their holders cannot legally test further.

Section 5. [4.] Each record sheet of milk fat tests results [of tests] is required to be dated and signed by the licensed tester(s). If a book or sheet with columns for more than one (1) series of tests covering different periods of time is used, the licensed tester(s) is to date and sign each column immediately after tests recorded therein are finished. These original sheets are to be permanent records and are required to be kept on file with other records of weights and payments for twelve (12) months.

Section 6. Reference Methods. Milk buyers may purchase commercially prepared reference milk samples in lieu of making their own reference milk samples for the calibration of Milkotesters and Infrared milk analyzers for fat, protein, lactose, and total solid components of raw milk. Solids not fat (SNF) shall be determined as the difference

between total solids and milk fat. Commercial laboratories preparing reference milk samples shall use only approved methods as listed below for each milk component.

(1) Reference methods approved by the director, or his agents, for milk fat analysis shall be the "Babcock" method and the "Mojonnier" method as described in the most recent edition of "Methods of Analysis—Association of Official Analytical Chemists."

(2) Reference methods approved by the director, or his agents, for milk protein analysis shall be the "Kjeldahl" nitrogen method as described by the most recent edition of "Methods of Analysis—Association of Official Analytical Chemists."

(3) The reference method approved by the director, or his agents, for milk lactose analysis shall be the "Polarimetric Method" as described by the most recent edition of "Methods of Analysis—Association of Official Analytical Chemists."

(4) All Kentucky milk buying locations testing milk to determine milk producer payments must be licensed for and maintain the Babcock method of milk fat analysis as a back-up procedure in the event of instrument malfunction or failure to meet the required standards. It will also be necessary to calibrate Milkotester and Infrared milk analyzers by the Babcock method fat analysis in the absence of approved commercially prepared reference milk samples.

CHARLES E. BARNHART, Director

APPROVED BY AGENCY: September 5, 1984

FILED WITH LRC: September 6, 1984 at 10 a.m.

PUBLIC HEARING SCHEDULED: Pursuant to KRS 13A.270 a public hearing is scheduled at 9 a.m., October 22, 1984, 102 Scovell Hall, Division of Regulatory Services, University of Kentucky, Lexington, Kentucky, with Mr. E. C. Troutman, Coordinator of Milk Program. Any person wishing to attend the hearing must submit written notification within five days before the above date to: Director, Kentucky Agricultural Experiment Station, Agricultural Science Center North, University of Kentucky, Lexington, Kentucky 40546.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: E. C. Troutman, Coordinator

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: N/A

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: N/A

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the pro-

posed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Because all haulers are affected the same; no distinctions are made between any haulers.

AGRICULTURE EXPERIMENT STATION

Division of Regulatory Services

(Proposed Amendment)

12 KAR 5:030. Test samples.

RELATES TO: KRS 260.775 to 260.845, 260.992

PURSUANT TO: KRS 260.785

NECESSITY AND FUNCTION: The Director of the Agricultural Experiment Station, University of Kentucky, is charged with the enforcement of KRS Chapter 260 to regulate milk buyers, milk testers and milk weighers and samplers. The purpose of this regulation is to establish guidelines and approved procedures to insure accurate fresh or [and] composite milk samples for milk component [fat] testing.

[Section 1. (1) All mixing tanks in which milk received in cans from producers is dumped shall be checked; the plant samplers and weighers and the management shall assist the inspector in making check tests of the mixing tank. These checks shall be made on all tanks that have not been approved by the Agricultural Experiment Station within the past twelve (12) months. In these check tests including twenty (20) or more comparisons, one (1) sample is taken in the usual manner. The other is taken after thorough stirring. The average variation and the plus and minus balance shall both be checked. To determine the average variation, total all variations and divide by the number of tests (usually twenty (20)). The results shall not exceed .07 percent. A plus and minus balance of .03 percent or less is satisfactory. Tanks that according to these checks show a definite trend (+ or - .03 percent or more and average variation of .07 percent or more) are subjected to condemnation. It shall be the responsibility of the management to make changes within a reasonable time in such tanks so as to secure samples considered satisfactory.]

[(2) The weigh tank shall be maintained in a satisfactory mechanical and sanitary condition, free from dents or bulges which may prevent adequate draining. Scales shall be balanced daily. When there is no evidence of the scales having been checked within six (6) months, the plant sampler and weigher and manager shall assist the inspector in making a check.]

[(3) All milk dumped into the weigh tank shall be sampled unless it is frozen, partially frozen, lumpy, curdled or churned, or milk otherwise in a condition which will not permit uniform distribution of milk fat. The producer should be notified promptly if his milk was unsuitable for thorough mixing so that corrective measures can be taken.]

Section 1. [2.] Buyers of milk received from producers' farm bulk tanks with fresh samples taken during any twenty-four (24) hour period must observe the following:

(1) Samples will be collected from every producers' shipment of milk and delivered to the buyer.

(2) Individual tank truck load samples must be obtained whenever producer samples are used for milk fat tests.

(3) Samples must be collected in a clean, dry, sanitized container. Four (4) ounces of milk shall be obtained with at least one (1) inch air space in top of a six (6) ounce con-

tainer. A minimum of one (1) ounce shall be obtained in smaller containers. Samples shall be kept between thirty-three (33) degrees to forty (40) degrees Fahrenheit and in an upright position until they are tested for milk fat.

(4) Fresh milk samples must be held for twenty-four (24) hours for retest following the last scheduled date for testing. [Either composite milk samples or fresh milk samples may be used for milk fat testing of milk received in cans. Composite milk samples must be held for seven (7) days following the last scheduled day for testing of all producers' milk samples.]

Section 2. [3.] (1) With composite samples use one (1) corrosive sublimate (mercuric chloride or bichloride of mercury) tablet containing not less than 0.3 gram (4.6 grains) of mercuric chloride per tablet, or some equally effective preservative, in each eight (8) ounce composite sample bottle. Three-tenths (0.3) gram of mercuric chloride is sufficient preservative to keep a 140 ml. composite sample of milk for four (4) weeks. Composite samples shall be tested immediately after the compositing period ends. At plants receiving milk from a large number of patrons, arrangements must be made to care for and test all of the samples before they deteriorate sufficiently to affect the accuracy of the tests. Keeping all composite samples (except those being tested during the current day) at fifty (50) degrees Fahrenheit or under is required. *On the first day of the compositing period, after the portion for that day has been put in the bottle, and after allowing for preservative to soften, the bottle shall be given a slight rotary motion to color the milk.*

(2) A minimum of ten (10) ml. shall be taken from each producer's delivery of milk. The quantity removed shall be the same for each day's production during a compositing period. The total composite sample at the time of testing shall be not less than 100 ml. If for example, a producer delivers milk only two (2) days during a compositing period, then a minimum sample of fifty (50) ml. must be taken on each of the two (2) days.

(3) Composite sample bottles shall have a capacity of not less than eight (8) ounces, be free from cracks, and be tightly fitted with an approved rubber stopper.

(a) Each bottle shall be identified with a legible mark of identification.

(b) Every sample bottle shall be clean and dry before the addition of a preservative and maintained in such a manner as to prevent the accumulation of moisture which may dilute the sample of milk.

(c) Each milk plant shall be provided with at least two (2) complete sets of sample bottles.

Section 3. [4.] When a dipper, thief, or similar manual device is used, it must be rinsed once prior to use with the milk which is to be sampled. When an automatic sampler is used, it must be operated in accordance with the manufacturer's instructions, and must include the correct vacuum, no leaks in the line and proper slope in lines to permit prompt drainage. The sampler and weigher must operate the automatic sampler so the milk fills the dome to the line marked thereon for this purpose (about one-half (1/2) full). It is possible for the automatic sampler to cause the check on mixing accuracy to be unsatisfactory.

[(2) If the weigh tank will not hold all the milk from any one (1) producer without the level of milk extending above the bottom of the strainer box, the lot of milk shall be split into two (2) equal portions and a sample taken from each lot. On the first day of the compositing period, after the portion for that day has been put in the bottle, and after

allowing for preservative to soften, the bottle shall be given a slight rotary motion to color the milk.]

(2) [(3)] The composite samples shall be stored away from strong light in a clean sanitary cabinet maintained at a temperature between thirty-five (35) degrees and fifty (50) degrees Fahrenheit. The samples shall not be kept at room temperature for longer than one (1) hour each day during the compositing period.

(3) [(4)] Place the sample bottles in tempering bath with the surface of the water slightly above the level of the milk in the bottles.

(4) [(5)] The temperature of the bath should not exceed 110° Fahrenheit at the time of placing the cold samples in it. Shortly thereafter the temperature should be adjusted as the temperature of the milk rises, so that the final temperature of both bath and samples is 100° Fahrenheit. (Two (2) baths may be used, one (1) for heating and one (1) thermostatically controlled for holding at 100° Fahrenheit).

(5) [(6)] Do not mix the milk in the sample bottles when at churning temperature (seventy (70) degrees to ninety (90) degrees Fahrenheit).

(6) [(7)] Any sample which may become diluted with water must be discarded and a permanent record made of the date of accident and the identity of the sample.

(7) [(8)] Any cream adhering to the sides of the bottle and the stopper must be reincorporated with the contents by gently rotating and inverting the bottle. A rubber policeman or nylon bristle brush may be used if preferred.

(8) [(9)] (a) The composite sample, after reaching 100° Fahrenheit is *mixed by pouring back and forth at least twice between the original sample bottle and [poured into] a mixing container [and back into the original sample bottle until at least two (2) round trips are made].* The mixing container shall be drained at least fifteen (15) seconds prior to re-use.

(b) If the bottle is not over two-thirds (2/3) full, the sample may be mixed by shaking horizontally back and forth six (6) *times* [round trips] through a distance of about six (6) inches within a period of three (3) seconds. Care must be used to avoid churning when this procedure is used. The sample for testing shall be pipetted immediately after mixing.

(9) [(10)] Temperature of milk for pipetting. The temperature of the milk at the time of pipetting shall be 100° Fahrenheit.

(10) [(11)] Pipetting. The tip of the milk pipet (calibrated to contain 17.6 ml of water at twenty degrees (20°) Centigrade) should be at a level approximately equal to one-half (1/2) the height of the milk in the sample bottle. The pipet is then filled until the topmost surface of the milk is even with the graduation mark on the pipet. The milk is then discharged into a test bottle by inserting the whole length of the long delivery tube of the pipet into the neck of the test bottle before releasing its contents. The lip of the test bottle must be vented to permit air to escape readily from the bottle, preferably by means of a grooved rubber washer at the base of the bulb of the pipet.

(11) [(12)] When the charge has drained, usually about ten (10) to fifteen (15) seconds after free flow has stopped, blow out the last drop or remove the pipet from the test bottle with a quick upward movement in order to remove the last drop from the tip of the pipet. Two (2) pipets used alternately may be advantageous.

(12) *Composite milk samples must be held for seven (7) days following the last scheduled day for testing of all the producers' milk samples.*

[Section 5. Buyers of milk received from producers farm bulk tanks with fresh samples taken during any twenty-four (24) hour period must observe the following:]

[(1) Samples will be collected from every producers' shipment of milk and delivered to the buyer.]

[(2) Individual tank truck load samples must be obtained whenever producer samples are used for milk fat tests.]

[(3) Samples must be collected in a clean, dry, sanitized container. Four (4) ounces of milk shall be obtained with at least one-half (1/2) inch air space in top of container. Samples shall be kept between thirty-three (33) degrees to forty degrees (40°) Fahrenheit and in an upright position until they are tested for milk fat.

[(4) Fresh milk samples must be held for twenty-four (24) hours for retest following the last scheduled date for testing.]

CHARLES E. BARNHART, Director

ADOPTED BY AGENCY: September 5, 1984

FILED WITH LRC: September 6, 1984 at 10 a.m.

PUBLIC HEARING SCHEDULED: Pursuant to KRS 13A.270, a public hearing is scheduled at 9 a.m., October 22, 1984, 102 Scovell Hall, Division of Regulatory Services, University of Kentucky, Lexington, Kentucky, with Mr. E. C. Troutman, Coordinator of Milk Program. Any person wishing to attend the hearing must submit written notification within five days before the above date to: Director, Kentucky Agricultural Experiment Station, Agricultural Science Center North, University of Kentucky, Lexington, Kentucky 40546.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: E. C. Troutman, Coordinator

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Because all haulers are affected the same; no distinctions are made between any haulers.

AGRICULTURAL EXPERIMENT STATION Division of Regulatory Services (Proposed Amendment)

12 KAR 5:040. Sampling and weighing.

RELATES TO: KRS 260.775 to 260.845, 260.992

PURSUANT TO: KRS 260.785

NECESSITY AND FUNCTION: The Director of the Agricultural Experiment Station, University of Kentucky, is charged with the enforcement of KRS Chapter 260 to regulate milk weighers and samplers. The purpose of this regulation is to establish procedures for milk weighers and samplers to use for accurate sampling and measuring of milk in farm bulk tanks.

Section 1. Each pickup of milk is required to be sampled and weighed (measured). Upon arrival at the farm the milk in the bulk tank may be measured at once if the agitator is not running. If the agitator is running, a sample may be obtained for milk fat testing first, after at least five (5) minutes of agitation. Measurement of milk can only be made after the milk surface in the farm tank becomes motionless.

Section 2. Bulk milk weighers and samplers shall use the following equipment in their milk sampling procedures:

(1) Sample rack and compartment on truck to hold one (1) sample for fat test for each patron, load samples, and other required samples.

(2) Need refrigerant to contain temperature of samples between thirty-three degrees (33°) and forty degrees (40°) Fahrenheit.

(3) Sample bags, tubes, bottles: thoroughly clean, dry leakproof container holding at least four (4) ounces of milk plus one (1) [one-half (1/2)] inch air space.

(4) Sample dipper or other sampling devices of sanitary construction approved by the Department for Human Resources. Shall hold one-fourth (1/4) of the required sample [or one (1) ounce].

Section 3. Bulk milk weighers and samplers shall use the following procedures in measuring farm bulk milk:

(1) Any foam in the area of measurement should be gently moved to one (1) side with the measuring rod.

(2) The measuring rod should be clean, dry and free of fat before taking a reading. *Rinse the measuring rod in clean warm (not hot) water and dry with a single service paper towel.* Insert rod into the milk slowly and seat it firmly without pounding.

(3) Read the rod to the nearest graduation mark and the correct weight recorded as indicated on the conversion chart. A second check reading is required. It's a good practice to record both the dip stick reading and the weight from the conversion chart on the farm weight ticket.

(4) Any unusual condition, such as the tank not level, agitator out, etc. must be recorded on the weight ticket and should be reported to the buyer.

Section 4. Bulk milk weighers and samplers shall use the following procedures in sampling producers' farm bulk milk:

(1) Milk must be agitated sufficiently to obtain a homogeneous blend. A minimum of five (5) minutes of agitation is required to obtain a representative sample for milkfat testing out of farm tanks less than 1,000 gallon capacity. Farm tanks over 1,000 gallon capacity shall be agitated at least ten (10) minutes.

(2) To eliminate moisture and sanitizing solution, rinse dipper and/or other sampling devices at least twice with milk before taking samples.

(3) *The bulk milk tank agitator must be turned on when pumping starts and immediately turned off when the level of milk reaches the top of the agitator. [While the agitator is still running take samples.] Do not start pumping the milk on to truck until sampling is completed. Take a total of four (4) ounces of milk if a six (6) ounce sample bag is used and at least one (1) ounce if a two (2) ounce container is used for producer samples.*

(4) Each sample tube, bottle, or plastic bag must be plainly, permanently labeled with identity of the producer and the date the sample was taken.

Section 5. Weight records are required to be made and accounted for in accordance with either subsections (1), (2) or (3) of this section:

(1) A separate record or ticket must be made for each "pickup" (may be duplicated). This ticket must show the amount of milk in pounds, the date, and the signature of the person who measured and sampled the milk. These tickets must be taken to the plant with the milk they represent by the person who signed them and delivered by him to the person designated to receive them.

(2) A record of the amount of milk obtained at each "pickup" shall be left at the farm; this record shall be made in ink, indelible pencil, or by a permanent duplicating process, properly dated and authenticated.

(3) If the weight record form is unsuitable for a signature being entered after each recorded amount of milk, the person who measures and samples it shall sign a certificate at the plant to cover the weight records for each load of milk. In this certificate he shall certify that he personally measured and sampled all of the milk in the load delivered on the said date. In addition, he shall date and sign the weight record at the end of the pay period.

(4) If the licensed sampler and weigher does not accompany the truckload of milk to the plant, he shall date and sign a separate certificate and send it to the plant with the weight records and milk they represent. The form for such a certificate follows:

I certify that I personally sampled and measured all of the milk obtained in the load delivered this date:

Date _____ Signature _____
Delivered by _____ Rec'd by _____

(5) Milk samples shall be under the haulers immediate surveillance at all times until they are delivered to the buyer, except as provided in Section 5(3) of this regulation.

Section 6. All licensed weighers and samplers transporting farm bulk milk in bulk tank trucks shall be required to obtain a "load sample" from the tank on their truck immediately after the last producers milk is pumped into their truck tank.

(1) The load sample must be taken with a sanitized dipper from the porthole on top of tank on the truck. Care must be taken to prevent any foreign material from entering the porthole which could contaminate the milk when the load sample is taken.

(2) This load sample is to be used for comparison of load and individual producers' samples for the purpose of grading and evaluation of the haulers competency in sampling.

(3) This load sample is to be taken by all bulk haulers in addition to, not in lieu of, any other load samples required by the buyer of the milk.

CHARLES E. BARNHART, Director

ADOPTED BY AGENCY: September 5, 1984

FILED WITH LRC: September 6, 1984 at 10 a.m.

PUBLIC HEARING SCHEDULED: Pursuant to KRS 13A.270, a public hearing is scheduled at 9 a.m., October 22, 1984, 102 Scovell Hall, Division of Regulatory Services, University of Kentucky, Lexington, Kentucky, with Mr. E. C. Troutman, Coordinator of Milk Program. Any person wishing to attend the hearing must submit written notification within five days before the above date to: Director, Kentucky Agricultural Experiment Station, Agricultural Science Center North, University of Kentucky, Lexington, Kentucky 40546.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: E. C. Troutman, Coordinator

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Because all haulers are affected the same; no distinctions are made between any haulers.

FINANCE AND ADMINISTRATION CABINET Kentucky Retirement Systems (Proposed Amendment)

105 KAR 1:080. Payment options for members and beneficiaries to conform with Section 401(a)(9) of the Internal Revenue Code [the Tax Equity and Fiscal Responsibility Act].

RELATES TO: KRS 16.505 to 16.652, 61.510 to 61.705, 78.510 to 78.852

PURSUANT TO: KRS [13.082,] 16.650, 61.640, 61.645, 78.780

NECESSITY AND FUNCTION: The provisions of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), specifically section 401(a)(9) of the Internal Revenue Code, *became* [will be] applicable to the Kentucky Retirement Systems effective July 1, 1984. Section 401(a)(9) as amended by TEFRA set forth new requirements for benefit distributions by "qualified" pension plans. The new requirements *limited* [will limit] the availability of some of the benefit options [presently] provided in KRS 16.510 to 16.652, 61.510 to 61.705 and 78.510 to 78.852. *Section 401(a)(9) was further amended by the Deficit Reduction Act of 1984 and most of the*

limitations imposed by TEFRA were removed. This regulation is promulgated under the authority set forth in KRS 61.645 and is necessary to define specifically which benefit options are available to members and beneficiaries of members deceased prior to retirement in accordance with Section 401(a)(9) of the Internal Revenue Code. [The availability of the various options depends substantially on whether or not the member names a spouse as beneficiary.]

Section 1. A retiring member [designating his spouse as beneficiary] shall be eligible to select from: (1) Any of the payment options available under the statutes which govern the system in which the member participates; or

(2) Any of the options set forth in 105 KAR 1:090.

[Section 2. A retiring member, who previously completed an Option Reservation Form, designating someone other than his spouse as beneficiary, shall be eligible to select a payment option indicated on the Option Reservation Form or one (1) of the options available which does not continue for the lifetime of the beneficiary upon the member's death.]

[Section 3. A retiring member designating someone other than his spouse as beneficiary, shall be eligible to select from any of the payment options available which does not continue for the lifetime of the beneficiary upon the member's death.]

Section 2. [4. If] The designated beneficiary of a member deceased prior to retirement [is the spouse of a deceased member, the beneficiary] shall be eligible to select one (1) of the options outlined in KRS 16.601 if applicable KRS 61.635(7), KRS 61.640 or regulation 105 KAR 1:100.

[Section 5. If the designated beneficiary of the deceased member is someone other than his spouse, the beneficiary shall be eligible for one (1) of the options outlined in KRS 16.601 if applicable or regulation 105 KAR 1:100.]

Section 3. [6.] A retiring member shall not be eligible to select KRS 61.635(8).

JOHN D. ROBEY, Chairman
CHARLES L. BRATTON, General Manager

ADOPTED: August 16, 1984

RECEIVED BY LRC: August 31, 1984 at 2:30 p.m.

PUBLIC HEARING SCHEDULED: A hearing on this regulation will be held on October 23, 1984 at 10 a.m. at the Retirement System Office at 226 West Second Street, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Charles L. Bratton, General Manager, Kentucky Retirement Systems, 226 West Second Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Charles L. Bratton

(1) Type and number of entities affected: Future Retirees (number indefinite)

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$2,000 to implement administrative changes

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Regulation necessary to comply with Internal Revenue Code - No alternative.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Regulation applies equally to all future retirees of the agency.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Payment options for members and beneficiaries.

SPONSOR: Kentucky Retirement Systems

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE: No

TYPE OF MANDATE:

LEVEL(S) OF IMPACT:

BUDGET UNIT(S) IMPACT:

FISCAL SUMMARY: No fiscal impact on local governments.

MEASURE'S PURPOSE:

PROVISION/MECHANICS:

FISCAL EXPLANATION:

SECRETARY OF THE CABINET

Department of Military Affairs
Division of Disaster and Emergency Services
(Proposed Amendment)

106 KAR 1:020. Disaster and emergency fund, administration; qualification requirements, procedure.

RELATES TO: KRS 39.480

PURSUANT TO: KRS 39.400

NECESSITY AND FUNCTION: KRS 39.480 established a fund to develop and maintain local emergency preparedness organizations affiliated with the Division of Disaster and Emergency Services and authorized the division to make rules and regulations for the administration of the fund. This regulation provides policy, procedure and qualification requirements.

Section 1. The purpose of the fund is to: (1) Assist local organizations to develop adequate emergency response capabilities;

(2) Maintain and improve existing organizations through enhanced training, planning, staffing, and equipment acquisition; and

(3) Benefit the state as a whole, through creation of a better prepared network of emergency response organizations.

Section 2. Responsibilities. (1) The Adjutant General, as Director of the Division of Disaster and Emergency Services, shall have overall responsibility for policy, guidance,

administration, implementation and proper utilization of this fund.

(2) The Executive Director shall serve as the primary advisor to the Adjutant General and shall serve as the principal liaison between the Adjutant General and local officials participating in programs affected by this fund.

(3) The Executive Director with the advice of at least a five (5) member board to be chosen by him, shall make determinations related to fund allocations.

(4) Area coordinators shall fully explain program opportunities and requirements to local elected officials and local director/coordinators, review budget and program submissions, and make recommendations to the Executive Director.

(5) Local director/coordinators shall be responsible for submitting budget requests and documentation of expenditures, as required.

Section 3. Benefits. Funds shall be made available to not more than one (1) emergency *management* [preparedness] organization per county, on a reimbursement basis up to fifty (50) percent of the local funds expended for the emergency services organization.

Section 4. Eligibility. Local emergency *management* [preparedness] organizations shall be eligible to receive benefits from the fund if they meet the following criteria:

(1) Director. The local organization must have qualified director/coordinator who is capable of performing during an emergency, devoting time to administrative matters, and available to participate in federal and state training programs. During the first year of participation in the funding program, the director/coordinator, whether serving on a voluntary or paid basis, shall have successfully completed *all available* [three (3)] correspondence courses designed to provide basic emergency *management* [preparedness] information, guidance for director/coordinators, and radiological (defense) instruction. He shall also participate in an emergency management workshop when offered. Each director/coordinator who is reimbursed for his services must also attend an *introductory emergency management* [a Phase I] course when offered.

(a) In following years, each director/coordinator must attend, as a minimum, an emergency management workshop, when offered.

(b) In subsequent years, a coordinator paid for spending at least one-half ($\frac{1}{2}$) of his time in emergency *management* [preparedness] matters must continue his education by completing advanced instruction offered by the federal emergency *management* [preparedness] organization.

(c) With permission of the director/coordinator, the deputy director/coordinator may attend the emergency management workshop in place of the director/coordinator.

(d) Each local emergency *management* employee whose salary is reimbursed in part by this fund shall attend at least one (1) emergency management workshop every other year.

(2) Plan. Within the first year of participation in the funding program, the local organization must complete a basic emergency operations plan and appropriate annexes. This plan will be subject to review and final approval by the Executive Director, Division of Disaster and Emergency Services. In subsequent years, the plan and all annexes must be reviewed and up-dated, as appropriate.

(3) Exercises. During the second and each subsequent year of participation in the program, the local organization

must conduct an exercise to test the operations plan. Multi-jurisdictional exercises are encouraged.

(4) Emergency operation center. Each participating organization must have an organized operating center, from which local emergency operations will be conducted. This center, when fully developed, must provide resources for the coordination of all emergency elements of government.

(5) Program paper. Each participating local organization must develop, and submit annually to Disaster and Emergency Services, a program paper detailing the [current status of emergency preparedness and] goals for the next fiscal year. Forms for this report will be provided by Disaster and Emergency Services. The report must be submitted as part of the budget request.

(6) Merit status. Each employee, with the exception of the local director/coordinator and his deputy, if the deputy functions in a policy making capacity, whose salary is *reimbursed* [paid] in part (or in total) with these funds must meet the standards of the Kentucky Merit System.

Section 5. Administrative Process. (1) Local organizations requesting financial assistance through the fund must submit, by 15 August [May] of each year, a local [Civil Preparedness] Annual Program Paper to the Division of Disaster and Emergency Services area coordinator. This document will be reviewed by the area coordinator and forwarded to the state office with recommendations.

(2) The Executive Director, as outlined in Section 2(3), will review and evaluate each request and, not later than September [June] 15, designate funds for approved programs and notify each applicant.

(3) At the end of each month or quarter, the local organization will submit a completed claim of reimbursement with supporting documentation, to the area coordinator. After review, the area coordinator will forward the documentation to the state office and a reimbursement check will be returned, at the rate determined.

(4) Requests to utilize these funds to purchase equipment must be approved in advance. To obtain approval, the local organization must submit a project application to the area coordinator, who will review it and forward to the state office with recommendation. Upon approval, the local organization will be notified and, after making the purchase, may submit a reimbursement claim under the procedures outlined in subsection (3) of this section.

Section 6. Review. (1) Program progress will be subject to quarterly review by area coordinators. Local organizations determined not to be making satisfactory progress toward goals outlined in the program paper will be given thirty (30) days to correct deficiencies. At the end of the thirty (30) day period, further funding may be withdrawn by the Executive Director if deficiencies are not corrected. Such funds may then be re-allocated to other organizations.

(2) The Executive Director, as outlined in Section 2(3), will review the expenditure rate of each organization receiving funds. If it is determined that an organization will not utilize all allocated funds, appropriate portions of the allocation may be withdrawn and reallocated to another organization with a demonstrated need.

Section 7. Waivers. Requests for waiver of any section or subsection of this regulation may be submitted with appropriate justification to the Executive Director. The Executive Director may grant such waivers only if, in his opinion, the justification merits special action and failure to

grant such waiver would jeopardize the continuation or development of the local program. In every case, the Executive Director must insure that the local program continues to meet the basic intent of KRS Chapter 39. Waivers approved will apply only to the specific request.

BILLY G. WELLMAN, The Adjutant General
LARRY HAYES, Secretary

APPROVED BY AGENCY: September 7, 1984

FILED WITH LRC: September 7, 1984 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing will be conducted at 1 p.m., October 25, 1984 in the Emergency Operations Building Conference Room, Boone Center, Frankfort, Kentucky. Persons desiring to attend this hearing must notify Thomas E. Little, Disaster and Emergency Services, Boone Center, Frankfort, Kentucky 40601, in writing not later than October 20, 1984.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas E. Little

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No change in cost; moves budget submission 3 months.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Will improve efficiency in reporting to meet federal requirements.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: All other alternative methods would force duplication of effort.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Amendment to existing regulation.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Disaster and Emergency Fund.

SPONSOR:

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE: No.

TYPE OF MANDATE:

LEVEL(S) OF IMPACT: County; Urban County Government.

BUDGET UNIT(S) IMPACT:

FISCAL SUMMARY: No change in funding; will require local government to submit budget requests on federal fiscal year rather than state.

MEASURE'S PURPOSE: Bring budget cycle into line with federal budget and reporting requirements; also in-

creases training requirements for some paid staff, with no added cost to state or local government.

PROVISION/MECHANICS:

FISCAL EXPLANATION:

TOURISM CABINET

Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 1:075. Gigging, hand grabbing or snagging, tickling and noodling.

RELATES TO: KRS 150.010, 150.025, 150.170, 150.175, 150.235, 150.360, 150.440, 150.445, 150.470

PURSUANT TO: KRS 13A.350, [13.082,] 150.025

NECESSITY AND FUNCTION: This regulation is necessary to permit and govern methods of harvest to the benefit of the fishery resource. This amendment is necessary to *expand the gigging season* [remove the gigging and snagging restrictions in the lower sections of the Little Kentucky River].

Section 1. As used in this regulation, the word "snagging" means an act of taking fish by using a single hook or one (1) treble hook (except in the Green River and its tributaries and Rolling Fork River and its tributaries where five (5) hooks, either single or treble hooks, may be used) which is attached by line to a pole and is used in a jerking and pulling manner.

Section 2. A person may gig or snag from the stream or lake banks, but cannot use these fishing methods from a boat or platform, except gigging is permitted from a boat in any lake with a surface acreage of 500 acres or larger during the daylight hours.

Section 3. The season during which gigging and snagging is permitted is *February* [March] 1 through May 10, annually, except persons may gig rough fish through the ice in these same waters any time the surface is frozen thick enough to stand on, and gigger must gig while supported by the ice.

Section 4. Gigging and/or snagging for rough fish is permitted night and day in all lakes and streams, except where specifically prohibited in Sections 2 and 5 of this regulation.

Section 5. Gigging and/or snagging is specifically prohibited in the following streams and their tributaries. (Exceptions: See subsection (1)(b) and subsection (2)(b) of this section.

(1)(a) The Cumberland River below Wolf Creek Dam downstream to the Tennessee line, and in the Cumberland River in the area below Barkley Dam downstream to US 62 bridge.

(b) Those tributaries to the Cumberland River below Wolf Creek Dam downstream to the Tennessee line shall be open to gigging and snagging, in season, except that portion of each tributary which is within one-half (½) mile of its junction with the Cumberland River.

(2)(a) Within 200 yards of any dam on any stream;

(b) Snagging only is permitted in the Tennessee River below Kentucky Dam subject to restrictions in 301 KAR 1:020.

(3) Little Kentucky River—upstream from a point 200 yards below the low water dam at the Sulphur Road Bridge.

(4) Goose Creek—Russell and Casey.

(5) Casey Creek—Trigg.

(6) Rough River, below Rough River Dam downstream to where Ky. 54 crosses the stream, and above the first riffle on Rough River Lake.

(7) Middle Fork of the Kentucky River, from Buckhorn Dam downstream to Breathitt-Perry County line.

(8) Trammel Creek, upstream from the Butlersville Bridge where Ky. 1332 crosses the stream.

(9) Peters Creek—Barren and Monroe.

(10) Beaver Dam Creek—Edmonson.

(11) Canada Creek—Wayne.

(12) Shultz Creek—Greenup.

(13) Sulphur Spring Creek—Simpson.

(14) Lick Fork Creek—Simpson.

(15) Sinking Creek—Breckinridge.

(16) Beaver Creek—Barren.

(17) Big Brush Creek—Green.

(18) Rough Creek—Hardin.

(19) Claylick Creek—Crittenden.

(20) Lynn Camp Creek—Hart.

(21) Roundstone Creek—Hart.

(22) Ravens Creek—Harrison.

(23) Boone Creek—Fayette and Clark.

(24) Caney Creek—Elliott.

(25) Greasy Creek—Leslie.

(26) Laurel Fork Creek—Harlan.

(27) Beaver Creek—Wayne.

(28) Craney Creek—Rowan.

(29) Swift Camp Creek—Wolfe.

(30) Middle Fork—Powell and Wolfe.

(31) War Fork—Jackson.

(32) Indian Creek—Jackson.

(33) Clover Bottom Creek—Jackson.

(34) Cane Creek—Laurel.

(35) Hawk Creek—Laurel.

(36) Beaver Creek—McCreary.

(37) Little South Fork—McCreary and Wayne.

(38) Rock Creek—McCreary.

(39) Lick Creek—McCreary.

(40) Bark Camp Creek—Whitley.

(41) Dogslaughter Creek—Whitley.

(42) Laurel Creek—Elliott.

(43) Big Double Creek—Clay.

(44) Hood Creek—Johnson and Lawrence.

Section 6. All game fish caught by gigging or snagging, except those taken below Kentucky Dam in the Tennessee River, shall be returned to the water immediately, regardless of condition.

Section 7. The tickling and noodling (hand grabbing) season for rough fish only shall be June 10 to August 31 (all dates inclusive) during daylight hours only. Tickling and noodling shall be permitted in all waters except the North, Middle and South Forks of the Kentucky River and their tributaries. The daily creel limit for tickling and noodling shall be fifteen (15) rough fish of which not more than five (5) may be catfish.

CARL E. KAYS, Commissioner

ROBERT C. WEBB, Chairman

G. WENDALL COMBS, Secretary

APPROVED BY AGENCY: September 14, 1984

FILED WITH LRC: September 14, 1984 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 22, 1984 at 10 a.m. in the meeting room of the Arnold L. Mitchell Building, No. 1 Game Farm Road, Frankfort, KY. Those interested in attending this hearing shall contact: Peter W.

Pfiever, Division of Fisheries, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, No. 1 Game Farm Road, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: Less than 10,000 individuals statewide that gig fish.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None required

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None required

(3) Assessment of anticipated effect on state and local revenues: None anticipated

(4) Assessment of alternative methods; reasons why alternatives were rejected: None available

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any conflicts.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Regulation applies to a uniform statewide season. Some tiering is used with regard to waters open to gigging and snagging activities.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Gigging, Hand Grabbing or Snagging, Tickling and Noodling

SPONSOR: Kentucky Department of Fish and Wildlife Resources

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE: No

TYPE OF MANDATE:

LEVEL(S) OF IMPACT:

BUDGET UNIT(S) IMPACT:

FISCAL SUMMARY:

MEASURE'S PURPOSE:

PROVISION/MECHANICS:

FISCAL EXPLANATION:

TOURISM CABINET

Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 1:140. Special commercial fishing permit.

RELATES TO: KRS 150.025, 150.110, 150.120, 150.170, 150.175, 150.190, 150.450

PURSUANT TO: 13A.350, 150.025 [13.082]

NECESSITY AND FUNCTION: Gill and trammel nets

are the most effective gear for the taking of certain rough fishes, but they pose a danger of overharvest of the most desirable rough species and are a threat to certain sport fish if not properly regulated; therefore, the commissioner with the concurrence of the commission finds a need to authorize additional use of such gear through the issuance of a permit which will have strict termination provisions and other safeguards to control their use. This amendment is necessary to *increase the waiting period for reapplication for a permit following revocation; to change the length of the season at Barkley Lake; to require permit holders to mark their netting boats; to delineate the waters open to special permit fishing at Rough River Lake; to restrict the depth at which unattended nets may be set* [prevent a convicted violator from further participation in the special netting program as an assistant on another permit].

Section 1. Issuance of Special Permit. The commissioner, after giving due consideration to the composition of the commercial fish population, the vulnerability of the game fish involved, and the ability and reliability of the applicant may issue a special commercial fishing permit to use gill and trammel nets in specified waters, other than those designated in 301 KAR 1:145; Section 2(4)(b).

Section 2. Application for Permits and Revocation. An applicant for a special permit to use gill and trammel nets shall file an application to which he signs his name attesting that he has read and will abide by all of the provisions of the permit and will obey all applicable game and fish laws and regulations or have his permit revoked without refund if found in violation by the commissioner. The offending permittee and assistant shall be ineligible to apply together or separately for another permit or to be an assistant on any other permit for a period of *three (3) years* [one (1) year] following revocation.

Section 3. General Provisions of the Special Permit to use Gill and Trammel Nets.

(1) The applicant for a permit must possess a valid commercial fishing license.

(2) The permit fee shall be \$500.

(3) Mesh size:

(a) Gill and trammel nets set and left must have a bar mesh size no smaller than three and one-half (3½) inches and no larger than four and one-half (4½) inch bar mesh size.

(b) Gill and trammel nets used as whip sets may have a minimum bar mesh size of three (3) inches, and no larger than four and one-half (4½) inch bar mesh size, but must be constantly attended by the permittee and/or assistant.

(4) Waters open to special permit fishing:

(a) *The waters of Rough River Lake from the dam upstream on the North Fork to the McCoy-Roff Road bridge (Galloway Bridge) and on the South Fork to the Kentucky Highway 737 bridge (Peter Cave Bridge)* [Commercial fishing waters to Rough River Lake].

(b) Commercial fishing waters of Barkley Lake.

(c) Commercial fishing waters of Kentucky Lake.

(5) The permit shall be valid for five (5) months only, November 1 through March 31 *at Rough River Lake and Kentucky Lake, and for four (4) months only, November 1 through the last day of February at Barkley Lake.*

(6) The permittee shall have no more than one (1) assistant who is a licensed commercial fisherman listed on the permit. Assistant may be replaced at any time, after the conservation officer or officers in the counties fished are notified, and a written notice given to the commissioner. The name of a new assistant must be listed on the permit

and all copies, and his predecessor's name marked out with ink.

(7) The permittee or assistant must have the permit or copy of the permit in possession at all times gear is being transported, set, raised, or run. Their names shall be on the permit or copy, and each must contain the same names.

(8) Illegal acts by permittee or assistant acting together or separately may result in permit revocation.

(9) The permittee shall keep daily catch and sales reports and submit weekly to the commissioner. No subsequent permit shall be issued until all reports required by the preceding permit are received by the commissioner. The reports shall include:

(a) The number of each species caught by common name.

(b) Disposition of each fish.

(c) Duplicate sales receipt of all fish sold.

(d) The average total length of nets fished daily listing gill and trammel nets separately and whip sets separately.

(e) Daily catch and sales reports and duplicate receipts of fish and fish products sold must be sent in weekly in postage paid envelopes provided by the department.

(10) All rough fish taken in the nets must be removed from the lake.

(11) Each net must be run at least once every twenty-four (24) hours.

(12) Each 100 feet of net must have attached one (1) commercial gear tag as required in KRS 150.175, subsection (6). Tags shall be grouped on the inshore and of each continuous net.

(13) A permittee must tag and fish at least 800 yards of netting an equivalent of twenty-five (25) percent of the open session.

(14) *Each permittee must mark his netting boat with two (2) special net permit decals supplied by the department. One (1) decal shall be affixed to each side of the boat or motor so as to be clearly visible when the boat is being used for special permit netting purposes.*

(15) *Gill and trammel nets used as stationary set nets must be set so that the top of the net or float line is a minimum of three (3) feet below the waters surface. Whip set nets that are attended constantly by the fisherman may be set at any depth.*

CARL E. KAYS, Commissioner
ROBERT C. WEBB, Chairman
G. WENDALL COMB, Secretary

APPROVED BY AGENCY: September 14, 1984

FILED WITH LRC: September 14, 1984 at 12 Noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1984 at 10 a.m. in the meeting room of the Arnold L. Mitchell Building, No. 1 Game Farm Road, Frankfort, KY. Those interested in attending this hearing shall contact: Peter W. Pfeiffer, Director, Fisheries Division, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, No. 1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don McCormick

(1) Type and number of entities affected: Approximately 30 commercial fishermen.

(a) Direct and indirect costs or savings to those affected:

1. First year: Anticipate loss of approximately 10% of the harvest of commercial fish valued at \$10,000.

2. Continuing costs or savings: The first year loss would be an annual recurring loss.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None
 - (b) Reporting and paperwork requirements: None
 - (2) Effects on the promulgating administrative body:
 - (a) Direct and indirect costs or savings:
 1. First year: Additional cost of approximately \$200 for boat decals.
 2. Continuing costs or savings: None
 3. Additional factors increasing or decreasing costs: None
 - (b) Reporting and paperwork requirements: None
 - (3) Assessment of anticipated effect on state and local revenues: None
 - (4) Assessment of alternative methods; reasons why alternatives were rejected:
 - (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
 - (a) Necessity of proposed regulation if in conflict:
 - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Yes
 - (6) Any additional information or comments:

Tiering:

Was tiering applied? No. Tiering was not deemed applicable since this regulation applies only to 30 special permit commercial net fishermen.

EDUCATION AND HUMANITIES CABINET

Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 3:005. Educational Improvement Act [Implementation plan].

RELATES TO: KRS 158.650 to 158.740

PURSUANT TO: KRS [13.082,] 156.070, 158.650, 158.670, 158.700 [, 158.730]

NECESSITY AND FUNCTION: KRS 158.650 to 158.740, as amended by Senate Bill 202, the Educational Improvement Act [of 1978], mandate a program of assessment, testing, annual performance reports, [and] educational improvement plans and various sanctions to insure the right of public school students to acquire the competencies in the essential [basic knowledge and learning] skills necessary to complete high school, pursue post secondary education, or enter the work force; and to assure such students access to programs and services appropriate to their educational needs in the areas of competencies in the essential skills [basic academic and learning skills development], with the Department of Education to administer the act pursuant to regulations of the State Board of Education and to develop a comprehensive implementation plan. This regulation implements the duties and functions of the Educational Improvement Act of 1978, as amended by Senate Bill 202, by adopting the Department of Education's revised implementation plan.

Section 1. Each local district board of education shall prepare an Annual Performance Report which shall include local district data for the following factors: annual transportation cost per pupil transported; annual current expenses per pupil in average daily attendance; cost per pupil for instruction; cost per pupil for administration; percent of district revenue received from local, state and federal sources; local revenue per child in average daily at-

tendance; assessed property value per child in average daily attendance; results of the state-mandated testing program; results of Scholastic Aptitude Test and American College Board Test; dropout rate; holding power; retention rate; percent average daily attendance; number and percent of students going to college or other postsecondary training; number and percent of students enrolled in special education and completing Individual Education Plans; percent of enrollment classified as economically deprived; average number of days professional staff are away from their work station; student/teacher ratio; teacher/administrator ratio; salary data by rank; the number of teachers teaching out of their field of specialty and the number of classes taught by teachers out of their field of specialty; expenditures for staff in-service; courses exceeding the state Program of Studies requirements; and an executive summary of the Master Educational Improvement Plan Progress Report. This report shall be submitted to the State Board of Education by December 15, 1984 for the 1983-84 school year, and by September 15 of each succeeding school year and shall be published in the newspaper with the largest circulation in the county by October 1. [Pursuant to the authority vested in the State Board of Education by KRS 158.670, each local district board of education shall submit to the State Department of Education for approval a local plan for educational improvement. The plan shall include the following: process goals, product goals, names of individuals involved in developing the plan, area of weaknesses, a list of priorities, objectives and activities, calendar of events, and progress report for previous year. The plan shall be on forms supplied by the State Department of Education.]

Section 2. Each local district board of education shall identify program and service deficiencies and product deficiencies based upon the Annual Performance Report, the results of the most current review of the factors listed hereinafter and such other state-mandated performance reports as deemed appropriate. Deficiencies shall be determined as follows:

(1) The district has major instructional deficiencies in program and service offerings as defined by the following accreditation standards and indicators:

(a) STANDARD—Legal responsibility:

1. Indicator—The local school district is in compliance with current applicable statutes of the Commonwealth of Kentucky and Kentucky administrative regulations and state board policies.

2. Indicator—The local school district is in compliance with current applicable federal laws and regulations.

(b) STANDARD—Curriculum and learning environment:

1. Indicator—Each school provides a minimum of 175 days of instruction.

2. Indicator—Each school provides a minimum of six (6) hours of instructional time per day.

3. Indicator—Each school is in compliance with the requirements in the Program of Studies in Kentucky Schools. K-12, pursuant to 704 KAR 3:304.

4. Indicator—Each school has a written plan for implementing the program of instruction for grades K-12.

5. Indicator—Opportunities are provided for citizens' groups to participate in the following:

- a. Curriculum study;
- b. Budget planning;
- c. Co-operative evaluation; and
- d. Accreditation study.

6. Indicator—The school has developed specific plans

and procedures assuring accountability to the local board and to the public.

7. Indicator—Quality textbooks with current content and provided in adequate quantities to meet classroom needs.

8. Indicator—The school has sufficient materials and equipment available to implement the curriculum.

(c) STANDARD—School staff and administration:

1. Indicator—All professional personnel hold appropriate certificates for positions and/or assignments. (Each vocational staff member has the required work experience specific to the program being taught.)

2. Indicator—All teachers are teaching in their major or minor field or specific areas of concentration.

3. Indicator—The local district has established and implemented procedures for evaluating all certified personnel based on the quality of their performance.

(d) STANDARD—Responsible pupil conduct: Indicator—Pupils, parents, teachers, administrators, and school board members are involved in the development of a code of pupil conduct and attendance based on assessed needs which is approved by the local school board; which is in compliance with state and federal law; and which contains a system by which all pupils, parents, and faculty members are informed annually of the pupil code and its provisions.

(e) STANDARD—Financial support and budget: Indicator—The budget provides for adequate funding of all required accrediting standards.

(2) Failure by the district to prepare and implement the Master Educational Improvement Plan established jointly by the district and the Kentucky Department of Education and approved by the local board of education and the State Board of Education.

(3) Failure by the district to prepare and submit each year, as herein required, the Annual Performance Report to the State Board of Education. Failure also to publish the Annual Performance Report in the newspaper with the largest circulation in the county by October 1.

(4) Failure by the district to achieve an academic performance level at which at least eighty-five (85) percent of the students enrolled in each grade K-12 master the essential skills in all five (5) essential skills areas and students in grades 3, 5, 7, and 10 score at or above the national average of fifty (50) NCE on the total battery of the basic skills test.

(5) Failure by the district to achieve a dropout rate lower than four and six-tenths (4.6) percent. The dropout rate shall be defined as the annual percent of students leaving school prior to graduation in grades 7-12 and includes withdrawals in attendance accounting codes W6, W7, W10, and W11.

(6) Failure by the district to achieve a holding power rate better than seventy (70) percent. The holding power shall be defined as the percent of 9th graders completing the 12th grade four (4) years later.

(7) Failure by the district to achieve a percent of attendance better than ninety-four (94). The percent of attendance shall be calculated by dividing the aggregate days attendance by aggregate days membership.

(8) Failure by the district to maintain a balanced budget or failure to meet program and service needs when the accumulated general fund balance is in excess of eight (8) percent of total general fund money.

Section 3. (1) To correct deficiencies not appropriately addressed as required by this regulation and related statutes in its current separate component documents, each

local board of education shall prepare and submit to the State Board of Education for approval, by October 15, 1985, a Master Educational Improvement Plan. The Master Educational Improvement Plan shall include as separate components the following: Part I, a plan for addressing accreditation deficiencies; Part II, a plan for addressing deficiencies in academic performance on state mandated tests; Part III, a plan for addressing the district personnel in-service needs (to be submitted by May 1 annually); Part IV, a plan for addressing the deficiencies identified as a result of the district's financial analysis; and Part V, such other components as necessary to correct deficiencies identified in other program and performance areas. The Master Educational Improvement Plan shall include specific timelines for correcting each deficiency and shall designate the individuals responsible for correcting each deficiency. The Master Educational Improvement Plan shall be established jointly by the district and the Kentucky Department of Education and shall be approved by the local board of education and the State Board of Education.

(2) Upon the initial filing and approval of a Master Educational Improvement Plan, the contents thereof shall supersede the separate component reports then on file.

Section 4. (1) Each district shall report to the Kentucky Department of Education by October 15 of each school year, its progress in correcting the deficiencies addressed in its Master Educational Improvement Plan. The Kentucky Department of Education shall identify those districts failing to make satisfactory progress in correcting deficiencies. The progress reports of the identified districts and such other reports as may be requested shall be reviewed by the Educational Improvement Advisory Committee which shall recommend to the Superintendent of Public Instruction for State Board action, those districts which are "educationally deficient" and which should be provided with technical assistance by the Kentucky Department of Education. Satisfactory progress shall be defined relative to "educationally deficient," as the district's compliance with and adherence to the timelines established in the approved Master Educational Improvement Plan which shall be submitted on an annual basis until the district is cleared of deficiencies.

(2) Where timelines established in a Master Educational Improvement Plan require remedial action by a district prior to the submission of a following year's progress report, the Superintendent of Public Instruction shall monitor such compliance and may recommend declarations of educational deficiency to the State Board of Education, where compliance is not accomplished, without recommendation or consideration by the Educational Improvement Advisory Committee.

Section 5. Local school districts failing to meet or make satisfactory progress toward meeting minimum program and service standards and product standards, after having received technical assistance from the Kentucky Department of Education, shall be subject to direct management intervention by the State Board of Education, as defined by KRS 158.584(4). Satisfactory progress shall be defined as the district's compliance with and adherence to the timelines established in the approved Master Educational Improvement Plan.

Section 6. Subsequent to direct management intervention by the State Board of Education, if the local district still does not meet established timelines for correcting deficiencies, removal from office of a member or members of

the local board or the superintendent or other school district personnel, pursuant to KRS 156.132 to 156.136, may be pursued by the state board.

Section 7. A district that has been declared an educationally deficient district by the state board shall be notified of such declaration in writing. At such time as an educationally deficient district shall be cleared by the Kentucky Department of Education of all deficiencies contributing to the declaration of educational deficiency, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall notify such a district in writing.

Alice McDonald

Superintendent of Public Instruction

APPROVED BY AGENCY: September 11, 1984

FILED WITH LRC: September 14, 1984 at noon.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 9 a.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If no requests to testify have been received by that date, the above regulation will be removed from the agenda

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: Rebecca Brown

(1) Type and number of entities affected: All public school districts

(a) Direct and indirect costs or savings to those affected: Based on the legal advertising rate and one-half page printing space, the estimated cost of publishing the report will range from \$162 to \$940.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Requires the preparation of an Annual Performance Report and a Master Educational Improvement Plan.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This represents the implementation of a key strategy in education reform in Kentucky which was endorsed by the Superintendent of Public Instruction, the Governor and the General Assembly.

Tiering:

Was tiering applied? No. Tiering was not applied because of the need for uniformity.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 20:035. Out-of-state preparation.

RELATES TO: KRS 161.030, 161.124

PURSUANT TO: KRS [13.082,] 156.070, 156.130, [156.160]

NECESSITY AND FUNCTION: KRS 161.030 authorizes the State Board of Education to approve teacher preparation curricula of any standard college or university when such are equivalent to approved programs in state institutions and to recognize completion out-of-state of such equivalent programs by teacher certification candidates; and KRS 161.124 enacts into law the Interstate Agreement on Qualifications of Educational Personnel. This regulation implements such statutory responsibilities and sets the duration of conditional certificates for the satisfaction of any curriculum requirement deficiencies. [A significant proportion of the teachers employed in the Kentucky schools were prepared in out-of-state colleges and universities; consequently, this regulation is designed to accommodate certain deficiencies that exist in the certification requirements among the several states.]

Section 1. An applicant for Kentucky teacher certification whose professional preparation was completed at a teacher education institution located outside the Commonwealth of Kentucky shall have completed a program of preparation and the curriculum requirements approved by the responsible state education agency for teacher certification and shall comply with the requirements of the Kentucky statutes and regulations governing teacher certification, including KRS 161.030. When the curriculum of the state approved program is substantially equivalent to the Kentucky requirements, the corresponding Kentucky certificate may be issued on an equivalency basis; however, if there are material curriculum differences, the corresponding Kentucky certificate shall be issued on a conditional basis. When a certificate is issued on a conditional basis, its duration shall be limited to one (1) year if the curriculum deficiencies amount to six (6) semester hours of credit or less, and to two (2) years if the curriculum deficiencies amount to more than six (6) semester hours of credit. [The Kentucky State Department of Education shall determine whether an applicant whose professional preparation was completed outside the Commonwealth of Kentucky has completed a teacher education program substantially equivalent to that required for a particular Kentucky certificate and shall be empowered to issue the certificate on an equivalency basis or on a conditional basis. When a certificate is issued on a conditional basis its duration shall be limited to not more than two (2) years during which time deficiencies specified by the Department of Education shall be completed by the applicant.]

Section 2. Issuance of a Kentucky teaching certificate shall be subject, in addition to the curriculum requirements set forth in Section 1 of this regulation, to any testing and internship requirements of KRS 161.030 and implementing regulations.

Alice McDonald

Superintendent of Public Instruction

APPROVED BY AGENCY: September 12, 1984

FILED WITH LRC: September 14, 1984 at noon.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If no requests to testify have been received by that date, the above regulation will be removed from the agenda

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: James Fouche

(1) Type and number of entities affected: Approximately 1,500 teacher certification applicants who prepare for teaching at an out-of-state college or university.

(a) Direct and indirect costs or savings to those affected: No change.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: No change.

(a) Direct and indirect costs or savings: No change.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No change.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This is a technical amendment to comply with Senate Bill 19 which is incorporated as an amendment to KRS 161.030.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same curriculum, testing, and internship requirements for certification.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 20:045. Testing prerequisites for teacher certification; certificatee [ion] application; beginning teacher internship program.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS [13.082,] 156.070, 161.030 [156.160]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board, and KRS 161.030 sets up additional testing and internship requirements for certification. This regulation provides for the implementation of the testing prerequisites for teacher certification as prescribed in KRS 161.030 and for the beginning teacher internship program; and also provides for certificate renewal requirements and for filing certificate application forms [Establishes an orderly system of submitting credentials for teacher certification].

Section 1. (1) Application for teacher certification shall be made on official forms prepared by the Department of Education.

(2) The application shall be supplemented by official transcripts showing all college credits necessary for the requested certification.

(3) The Superintendent of Public Instruction may authorize a teacher education institution to present certificates to applicants at the time the certification requirements are completed, provided the applications have been approved in advance by the Department of Education and provided the institution files the official transcripts of credits with the Department of Education within thirty (30) days.

Section 2. Effective January 1, 1985, teacher certification issued initially under the provisions of 704 KAR 20:065, 20:070, 20:080, 20:085, 29:090, 20:145, 20:150, 20:159, 20:222, 20:230, 20:235, 20:240, 20:245, 20:270, and 20:290 shall comply with the provisions of KRS 161.030 and with the following requirements and procedures:

(1) There shall be a recency of preparation prerequisite for the issuance of certificates covered by this section. The program of preparation shall have been completed within the five (5) year period next preceding the date of receipt of the certificate application form, or else the applicant shall have completed six (6) semester hours of additional graduate credit within this five (5) year period. For applicants who do not meet the recency of preparation prerequisite, and who have not previously held a regular Kentucky teaching certificate, but who otherwise qualify for certification, the certificate shall be issued for a one (1) year period ending June 30 of the next calendar year and with the condition that six (6) semester hours of credit applicable toward the usual renewal requirements be completed by September 1 of the year of expiration. Thereafter the further extension of the certificate shall be in compliance with the usual renewal requirements as specified in subsection (2) of this section.

(2) Teaching certificates described in this section shall be issued for a duration period of five (5) years and with provisions for subsequent five (5) year renewals, except that the initial certification for the beginning teacher internship shall be issued for a duration period of one (1) year and initial certification for applicants who do not meet the recency of preparation prerequisite shall be issued

for a duration period of one (1) year. Upon successful completion of the beginning teacher internship as judged by majority vote of the beginning teacher committee, the one (1) year certificate shall be extended for the remainder of the five (5) year period. The certificate shall be renewed for subsequent five (5) year periods upon completion by September 1 of the year of expiration of three (3) years of successful teaching experience or upon completion by September 1 of the year of expiration of at least six (6) semester hours of credit or the equivalent in PSDU's or CEU's, as defined in 704 KAR 20:020, except that persons who have not yet completed the Planned Fifth-Year Program, as defined in 704 KAR 20:020, shall complete at least fifteen (15) semester hours of credit applicable to the program for the first renewal and the remainder of the program for the second renewal. Credits for certificate renewal shall be earned after the issuance of the certificate, and any credits earned in excess of the minimum requirements for any renewal period shall accumulate and be carried forward to apply toward subsequent renewals.

(3) Whenever there is a lapse in any certification identified in this section due to expiration for lack of meeting the renewal requirements, the certificate may be reissued at a later date for a one (1) year period by first completing at least six (6) semester hours of graduate credit applicable toward the Planned Fifth-Year Program. The applicant shall complete another nine (9) semester hours of credit applicable toward the Planned Fifth-Year Program by September 1 of the year of expiration in order to qualify for extending the certificate for the remaining four (4) years of the usual five (5) year duration period. At the end of this renewal period the applicant shall have completed the Planned Fifth-Year Program to qualify for the next five (5) year renewal. Thereafter, the regular renewal schedule of six (6) semester hours of additional credit or the equivalent in PSDU's or CEU's each five (5) year period shall apply. An applicant who has already completed the Planned Fifth-Year Program and whose certificate lapses may have the certificate reissued after first completing another six (6) semester hours of graduate credit. The certificate shall be issued for a five (5) year period and subject to the renewal schedule of six (6) semester hours of additional credit or the equivalent in PSDU's or CEU's for each five (5) year period.

(4) An applicant having completed five (5) or more years of full-time acceptable teaching experience outside of the Commonwealth of Kentucky, who otherwise qualifies for certification, shall not be required to take the written tests or to participate in the beginning teacher internship program. An applicant who has held a regular Kentucky teaching certificate which has lapsed for failure to meet renewal requirements and who has completed five (5) or more years of full-time acceptable teaching experience, but who otherwise qualifies for the reissuance of a Kentucky teaching certificate shall not be required to take the written tests or to participate in the beginning teacher internship program. In calculating the minimum of five (5) years of acceptable experience, full-time teaching shall be defined as continuous employment for at least a half day or more; full-time teaching for a major portion of a semester shall be counted as one-half ($\frac{1}{2}$) year; and full-time experience for the major portion of an academic year shall be counted as one (1) year. At least three (3) of the five (5) years of experience shall be in a position directly corresponding to the type of teaching certificate for which the application is being made.

(5) Prerequisites for the issuance of a one (1) year certificate for the beginning teacher internship shall include:

(a) The completion of an approved program of preparation which corresponds to the certificate desired.

(b) The completion of the written tests designated by the State Board of Education for:

1. General knowledge;
2. Communications skills;
3. Professional education concepts; and
4. Knowledge in the specific teaching field of the applicant, with minimum scores in each test as set by the State Board of Education.

(c) Evidence of full-time employment in a Kentucky school as attested by the prospective employer.

(6) Upon successful completion of the approved program of preparation and upon completion of the designated tests with acceptable scores, the Department of Education shall issue a statement of eligibility for employment which shall serve as evidence of eligibility for the one (1) year certificate once a teaching position is secured. The statement of eligibility shall be valid for a four (4) year period beginning from the date of issuance from the Department of Education and ending on the same date four (4) years later.

(7) For persons who attain the statement of eligibility, but who are not employed on a full-time basis, the Certificate for Substitute Teaching may be issued as provided in 704 KAR 20:210, Section 1.

(8) The one (1) year certificate shall be issued effective from the date of employment and shall expire June 30 of the next calendar year. If the teacher's first year performance is judged to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the internship one (1) time through the reissuance of another one (1) year certificate if the teacher is employed by a school district.

(9) The first year of employment as a beginning teacher shall serve as the internship as described in KRS 161.030. The Superintendent of Public Instruction shall design, for State Board approval, the plan which provides for the beginning teacher committee, the support services for the beginning teacher, the evaluation of the performance of the beginning teacher, the development of criteria and procedures for the evaluation of the performance of the beginning teacher, and the training of the evaluators who make up the beginning teacher committee.

(10) The one (1) year internship shall include a minimum of 140 days of full-time teaching experience.

Section 3. 704 KAR 20:051 is hereby repealed.

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: September 12, 1984

FILED WITH LRC: September 14, 1984 at noon.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If not requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: James Fouche

(1) Type and number of entities affected: All applicants

for Kentucky teacher certification, excluding applicants for administrative type positions; the 24 Kentucky colleges/universities that prepare teacher; the 180 local public school districts, the 3 Diocesan districts, and 2 dependent districts; and approximately 1,200 first-year teacher employees.

(a) Direct and indirect costs or savings to those affected:

1. First year: Individual certificate applicants must pay a fee of approximately \$75 to the testing agency; development of internship program will cost approximately \$100,000 (was appropriated by the General Assembly).

2. Continuing costs or savings: The beginning teacher internship program will cost approximately \$2,500,000 per year beginning in 1985-86 and this appropriation was made.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Cost will fluctuate up or down depending upon the number of beginning teachers employed each year.

(b) Reporting and paperwork requirements: A comprehensive clerical system of tracking all the details of certificate application, testing, test scores, statements of certificate eligibility, certificate issuance, identification of approximately 3,600 teacher evaluators, identification and tracking of 1,200 new teachers, and providing/monitoring flow of funds to approximately 1,200 resource teachers.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Additional personnel costs for at least one full-time professional employee plus office space and furnishings.

2. Continuing costs or savings: Continuing costs of one professional employee and one clerical employee plus adequate access to data processing equipment (word processing and computer).

3. Additional factors increasing or decreasing costs: Administrative costs should level out after the first year.

(b) Reporting and paperwork requirements: Same as (1)(b) above.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: An alternative was to develop customized tests for Kentucky, but this was rejected because of the estimated start-up cost of one million dollars.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Several regulations relating to teacher certification, but these are being revised concurrently to eliminate any conflict.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: These regulations are necessary to implement the revisions of KRS 161.030 made by the 1984 General Assembly through Senate Bill 19.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same curriculum, testing, and internship requirements for certification.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 20:050. Time limit for applying for certification.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS [13.082,] 156.070, 161.030 [156.160]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation [There is need to] assures continuing eligibility for teacher certification for a reasonable period of time after meeting the initial qualifications and [to] specifies [y] an alternate course of action once a reasonable period of time has elapsed. [This regulation provides for a continuing period of eligibility after initial qualifications and specifies the alternatives for persons who delay application for many years after first establishing eligibility.]

Section 1. A person who has completed[s] an approved [particular] program of teacher preparation corresponding to a certificate [before the prescribed deadline date] shall continue to be eligible for the certificate insofar as the curriculum requirements are concerned for a period of five (5) years regardless of changes in the state curriculum requirements provided that the particular certificate is still authorized for issuance by the regulations. In the event that significant curriculum changes are made subsequent to program completion but before submitting an application for certification, any certificate for which the applicant may be otherwise qualified shall be issued with the condition that any significant curriculum differences as determined by the Division of Teacher Education and Certification shall be completed within a two (2) year period, provided that the particular certificate is still authorized for issuance by the regulations. [for the issuance of the certificate which corresponds to the particular program completed (dating from September 1 following the time of graduation).]

[Section 2. A person who has completed a four (4) year program of teacher preparation and the planned fifth year program ten (10) or more years prior to the date of application for certification shall be issued the comparable current Kentucky certificate bearing the condition that twelve (12) semester hours of additional preparation be completed at a minimum rate of six (6) semester hours a year within a two (2) year period subject to the following modifications:]

[(1) The twelve (12) semester hour condition shall be reduced by the amount of graduate level credit completed during the previous ten (10) year period.]

[(2) The twelve (12) semester hour condition shall be reduced by the amount of full-time teaching experience at the appropriate level completed during the previous ten

(10) year period (at the rate of one (1) full year for four (4) semester hours).]

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: September 12, 1984

FILED WITH LRC: September 14, 1984 at noon.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If not requests to testify have been received by that date, the above regulation will be removed from the agenda

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: James Fouche'

(1) Type and number of entities affected: Persons who have completed teacher preparation programs, but who have delayed making application for the corresponding teaching certificate for a number of years. The number of persons is not known, but is estimated from 50 to 150 a year.

(a) Direct and indirect costs or savings to those affected:

1. First year: Not determined—regulation would allow persons to accept employment immediately as opposed to taking additional college courses prior to employment.

2. Continuing costs or savings: See 1 above.

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: No change (all applicants must make application; if approved, certificates are issued).

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: A modest saving of staff time in communicating the requirements to affected individuals.

2. Continuing costs or savings: See 1 above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change (all applicants must make application; if approved, certificates are issued).

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: This proposal is considered to be a desirable alternative to the present regulation.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None. Revision brings this regulation into compliance with the provisions of new Senate Bill 19 relating to teacher testing.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same requirements for certification.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 20:060. Renewals.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS [13.082, 156.030,] 156.070, 161.030[156.160]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the state board, and KRS 161.020 safeguards the validity of certificates previously issued from any impairment arising from later changes in certification provisions. This regulation continues and preserves the legislative intent for certificates issued subsequent to these acts and also establishes certificate renewal provisions for certain unusual circumstances.

Section 1. The validity of any certificate for professional school personnel which has been issued under the authority of the Kentucky State Board of [for Elementary and Secondary] Education shall not be impaired by the repeal or revision of the certification requirements and such certificate may continue to be renewed in accordance with the provisions in effect at the date of the issuance of such certificate.

Section 2. When the renewal of any provisional teaching certificate requires the completion of additional academic course work in lieu of teaching experience, the credits shall be selected from the planned fifth-year program.

[Section 3. The following classes of certificates originally issued for three (3), four (4), and five (5) year periods may be renewed for ten (10) year periods upon completion of the respective renewal requirements: Provisional and standard elementary and secondary teaching certificates when the holder has a bachelor's degree; librarian certificates; and special education certificates.]

Section 3. [4.] Upon expiration regular certificates may be extended [reinstated] for one (1) time only for the one (1) year period immediately following the expiration date [upon recommendation by the employing school superintendent] upon completion of at least one-third (1/3) of the renewal requirements and upon recommendation by the employing school superintendent. The remainder of the renewal requirements shall be completed within the one (1) year period of reinstatement.

Section 4. [5.] (1) Experience in the armed forces of the United States of America may be accepted toward the renewal of teaching certificates in lieu of required teaching experience, provided the applicant held a valid certificate prior to entering military service.

(2) The validity period of a certificate held by a person at the time of entry into the armed forces of the United States of America shall be extended for the same period of

time for which it was valid at the time of entry, beginning from the date of discharge.

Section 5. [6.] For certificates requiring teaching experience for renewal, experience as a substitute teacher may be accepted if the holder of the certificate was employed officially by the local board of education, was paid through the board of education, and substituted no less than thirty (30) teaching days distributed over two (2) semesters of a regular school term.

Section 6. [7.] The Superintendent of Public Instruction shall approve the types of experiences which may be accepted under the law and regulations of the State Board of [for Elementary and Secondary] Education in renewing certificates.

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: September 12, 1984

FILED WITH LRC: September 14, 1984 at noon.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If not requests to testify have been received by that date, the above regulation will be removed from the agenda

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: James Fouche

(1) Type and number of entities affected: None; the circumstances of many persons would be considerably complicated if this revision is not made.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: A section of this regulation is being deleted because it is in conflict with the other revisions being proposed in 704 KAR 20:045.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: In addition to the deletion of Section 3, there is some language clarification in another section.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same requirements for certification.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 20:065. Standard high school certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS [13.082, 156.030,] 156.070, 161.030[156.160]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of [for Elementary and Secondary] Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards [State Plan] for the [Approval of] Preparation- [Programs for the] Certification of Professional School Personnel.

Section 1. (1) The standard high school certificate shall be issued in accordance with the pertinent Kentucky statutes and State Board of [for Elementary and Secondary] Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards [State Plan] for the [Approval of] Preparation- [Programs for the] Certification of Professional School Personnel as adopted in 704 KAR 20:005.

(2) *Effective until December 31, 1984*, the standard high school certificate shall be issued initially for a duration period of ten (10) years except that when the curriculum requirements were completed more than ten (10) years prior to the date of certificate issuance the provisions of 704 KAR 20:050, Section 2, shall apply. The certificate shall be extended for life upon three (3) years of successful teaching experience performed under a regular teaching certificate and completed prior to the expiration of the standard certificate. If the requirements for life extension have not been completed by the end of each ten (10) year period, the certificate may be renewed at the end of each ten (10) year period upon completion of two (2) years of successful teaching experience or upon six (6) semester hours of graduate credit for each of the years of required experience.

(3) *Effective January 1, 1985*, the standard high school certificate shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(4) [(3)] *Except as hereinafter provided*, the standard high school certificate shall be valid for teaching in grades seven (7) through twelve (12).

(5) *Effective September 1, 1989*, the standard high school certificate valid for grades seven (7) through twelve

(12) shall be issued only to applicants who have completed the requirements in this section and who also hold a valid Kentucky provisional high school certificate. Effective September 1, 1989, a new certificate renamed the standard certificate for teaching in the secondary grades 9-12 valid for teaching only in grades nine (9) through twelve (12) shall be issued to applicants who complete the requirements in this section.

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: September 12, 1984

FILED WITH LRC: September 14, 1984 at noon.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If not requests to testify have been received by that date, the above regulation will be removed from the agenda

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: James Fouche

(1) Type and number of entities affected: All applicants for the type of certificate named in this regulation—numbers vary.

(a) Direct and indirect costs or savings to those affected: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This is a technical change to incorporate the provisions of Senate Bill 19 (KRS 161.030) and its implementing regulation, 704 KAR 20:045. All information about costs, effects, etc. are included in the Regulatory Impact Analysis submitted with 704 KAR 20:045.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same curriculum, testing, and internship requirements for certification.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 20:070. Provisional high school certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to a particular certificate on the basis of standards and procedures recommended by the council and approved by the state board. This regulation establishes an appropriate certificate for teaching in the secondary grades and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005.

Section 1. (1) The provisional high school certificate shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005.

(2) Effective until December 31, 1984, the provisional high school certificate shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth-year program. The certificate may be extended for life upon completion of three (3) years of successful teaching experience on a regular certificate and upon completion of a planned fifth-year program.

(3) Except as hereinafter provided, the provisional high school certificate shall be valid for teaching in grades seven (7) through twelve (12).

(4) Effective September 1, 1989, the certificate described in this regulation shall be renamed the provisional certificate for teaching in the secondary grades 9-12, and this new certificate shall be valid only for teaching in grades nine (9) through twelve (12).

(5) Effective January 1, 1985, the provisional high school certificate shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

ALICE McDONALD

Superintendent of Public Instruction

ADOPTED BY AGENCY: September 12, 1984

FILED WITH LRC: September 14, 1984 at noon

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education,

First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James Fouché

(1) Type and number of entities affected: All applicants for the type of certificate named in this regulation—numbers vary.

(a) Direct and indirect costs or savings to those affected: Not applicable.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Not applicable

(2) Effects on the promulgating administrative body: Not applicable

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: Not applicable

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not applicable

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This is a technical change to incorporate the provisions of Senate Bill 19 (KRS 161.030) and its implementing regulation 704 KAR 20:045. All information about costs, effects, etc. are included in the Regulatory Impact Analysis submitted with 704 KAR 20:045.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same curriculum, testing, and internship requirements for certification.

EDUCATION AND HUMANITIES CABINET

Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 20:080. Provisional middle grades certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the council and ap-

proved by the state board. This regulation establishes an appropriate certificate or teaching in the middle grades and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. (1) The provisional certificate for teaching in the middle grades 4-8 shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005.

(2) *Effective until December 31, 1984* the provisional certificate for teaching in the middle grades 4-8 shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth-year program. The certificate may be extended for life upon completion of three (3) years of successful teaching experience on a regular certificate and upon completion of the planned fifth-year program.

(3) *Effective January 1, 1985, the provisional certificate for teaching in the middle grades shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.*

(4) [(3)] The provisional certificate for teaching in the middle grades 4-8 shall be valid for teaching in grades four (4) through eight (8) and shall be endorsed for grades nine (9) through twelve (12) for any subject assignments in which the teacher holds a regular high school teaching major or minor or area of concentration.

Alice McDonald

Superintendent of Public Instruction

ADOPTED BY AGENCY: September 12, 1984

FILED WITH LRC: September 14, 1984 at noon

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James Fouché

(1) Type and number of entities affected: All applicants for the type of certificate named in this regulation—numbers vary.

(a) Direct and indirect costs or savings to those affected: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
 - (b) Reporting and paperwork requirements:
- (3) Assessment of anticipated effect on state and local revenues: N/A
- (4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
- (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
 - (a) Necessity of proposed regulation if in conflict:
 - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
- (6) Any additional information or comments: This is a technical change to incorporate the provisions of Senate Bill 19 (KRS 161.030) and its implementing regulation 704 KAR 20:045. All information about costs, effects, etc. are included in the Regulatory Impact Analysis submitted with 704 KAR 20:045.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same curriculum, testing, and internship requirements for certification.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 20:085. Standard elementary certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS [13.082, 156.030,] 156.070, 161.030[156.160]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of [for Elementary and Secondary] Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky *Standards [State Plan] for the [Approval of] Preparation-[Programs for the] Certification of Professional School Personnel*.

Section 1. (1) The standard elementary certificate shall be issued in accordance with the pertinent Kentucky statutes and State Board of [for Elementary and Secondary] Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky *Standards [State Plan] for the [Approval of] Preparation-[Programs for the] Certification of Professional School Personnel as adopted in 704 KAR 20:005*.

(2) *Effective until December 31, 1984*, the standard elementary certificate shall be issued initially for a duration period of ten (10) years except that when the curriculum re-

quirements were completed more than ten (10) years prior to the date of certificate issuance the provisions of 704 KAR 20:050, Section 2, shall apply. The certificate shall be extended for life upon three (3) years of successful teaching experience performed under a regular teaching certificate and completed prior to the expiration date of the standard certificate. If the requirements for life extension have not been completed by the end of the ten (10) year period, the certificate may be renewed at the end of each ten (10) year period upon completion of two (2) years of successful teaching experience or upon six (6) semester hours of graduate credit for each of the years of required experience.

(3) *Effective January 1, 1985, the standard elementary certificate shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.*

(4) [(3)] *Except as hereinafter provided*, the standard elementary certificate shall be valid for teaching in grades one (1) through eight (8).

(5) *Effective September 1, 1989, the standard elementary certificate shall be issued only to applicants who have completed the requirements in this section and who hold a valid Kentucky provisional elementary certificate.*

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: September 12, 1984

FILED WITH LRC: September 14, 1984 at noon.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If not requests to testify have been received by that date, the above regulation will be removed from the agenda

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: James Fouche

(1) Type and number of entities affected: All applicants for the type of certificate named in this regulation—numbers vary.

(a) Direct and indirect costs or savings to those affected: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This is a technical change to incorporate the provisions of Senate Bill 19 (KRS 161.030) and its implementing regulation 704 KAR 20:045. All information about costs, effects, etc., are included in the Regulatory Impact Analysis submitted with 704 KAR 20:045.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same curriculum, testing, and internship requirements for certification.

EDUCATION AND HUMANITIES CABINET

Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 20:090. Provisional elementary certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the council and approved by the state board. This regulation establishes an appropriate certificate for teaching at the elementary level, and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. (1) The provisional elementary certificate shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005.

(2) *Effective until December 31, 1984*, the provisional elementary certificate shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth-year program. The certificate may be extended for life upon completion of three (3) years of successful teaching experience on a regular certificate and upon completion of a planned fifth-year program.

(3) *Effective January 1, 1985*, the provisional elementary certificate shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(4) [(3)] The provisional elementary certificate shall be valid for teaching in grades one (1) through eight (8).

(5) [(4)] Effective September 1, 1989, the issuance of new provisional elementary certificates as described in this regulation shall be discontinued. Effective with the 1986-87

academic year teacher candidates shall not be admitted to the preparation program leading to the provisional elementary certificate, but instead the teacher education institution shall advise and guide them into any one (1) of the three (3) preparation options: provisional certificate for teaching in the early elementary grades K-4, the provisional certificate for teaching in the middle grades 4-8, the provisional certificate for teaching in the secondary grades 9-12.

ALICE McDONALD

Superintendent of Public Instruction

ADOPTED BY AGENCY: September 12, 1984

FILED WITH LRC: September 14, 1984 at noon

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: James Fouche

(1) Type and number of entities affected: All applicants for the type of certificate named in this regulation—numbers vary.

(a) Direct and indirect costs or savings to those affected: Not applicable

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Not applicable

(2) Effects on the promulgating administrative body: Not applicable

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: Not applicable

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not applicable

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This is a technical change to incorporate the provisions of Senate Bill 19 (KRS 161.030) and its implementing regulation 704 KAR 20:045. All information about costs, effects, etc. are included in the regulatory impact analysis submitted with 704 KAR 20:045.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same curriculum, testing, and internship requirements for certification.

**EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Proposed Amendment)**

704 KAR 20:120. Emergency certification.

RELATES TO: KRS 161.020, 161.030, 161.100

PURSUANT TO: KRS [13.082,] 156.070, 161.030, 161.100

NECESSITY AND FUNCTION: KRS 161.100 provides for the employment of school personnel in the event that regularly qualified persons are not available for specific positions. This regulation establishes the procedures by which the local boards of education and the State Board of Education may comply with the statute.

Section 1. (1) In order to comply with KRS 161.100 in establishing the need for employing emergency teaching personnel, the superintendent of the local school district and the board of education shall make the following declaration to the Superintendent of Public Instruction on request forms supplied by his office:

(a) No qualified teachers have applied for the vacant position and to our knowledge qualified teachers are not available for the position.

(b) Diligent efforts have been made to recruit a qualified teacher for the vacant position, and furthermore, this vacancy has been made known locally by appropriate means.

(c) The local school district has been unsuccessful in recruiting teachers for the vacant position either from the listings of teachers supplied by the State Department of Education or by means of the placement services of the teacher education institutions.

(d) The position will be filled by the best qualified person available, giving preference to the factors of academic preparation, prior teaching experience or related educational work, and personal attributes compatible with the demands of the teaching profession.

[(2) The superintendent of the local school district and the board of education may establish the need for emergency teaching personnel, restricted to substitute teaching only, on the basis of anticipated shortages of regularly certified teachers. Emergency certificates may then be issued by the Superintendent of Public Instruction restricted to substitute teaching only and subject to the priority schedule for the employment of substitute teachers as established by 704 KAR 20:210.]

(2) [(3)] The Superintendent of Public Instruction, depending upon his assessment of the need for the position and the availability or anticipated availability of qualified personnel, shall approve or disapprove a request for the employment of emergency teaching personnel. The term of validity of an emergency certificate may be limited to a period less than the full school year; the beginning date shall be no earlier than the date the request form is received in the Department of Education.

(3) *The superintendent of the local school district and the board of education may establish the need for emergency teaching personnel, restricted to substitute teaching only, on the basis of anticipated shortages of regularly certified teachers. Emergency certificates may then be issued by the Superintendent of Public Instruction restricted to substitute teaching only and subject to the priority schedule for the employment of substitute teachers as established by 704 KAR 20:210. Emergency certificates for substitute teaching shall not be issued to applicants having*

less than sixty-four (64) semester hours of credit, except that for the remainder of the 1984-85 school year, the Superintendent of Public Instruction may grant approval for applicants having at least thirty-two (32) semester hours of credit or more whenever the need for such personnel is appropriately documented by the local school district superintendent and board of education using application forms provided by the Department of Education.

(4) *A minimum grade point average of 2.0 on a 4.0 scale shall be required for the issuance of any emergency certificate whether for employment in a full-time, part-time, or substitute teaching position.*

(5) [(4)] An application form signed by the local school superintendent and approved by the local board of education shall be submitted for each anticipated emergency position. The application shall be accompanied by official transcripts of all college credits earned by the prospective emergency teacher.

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: September 12, 1984

FILED WITH LRC: September 14, 1984 at noon

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., (EDT), in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: James Fouche

(1) Type and number of entities affected: 180 local school districts; approximately 1,000 emergency substitute teachers; and the children who are taught by substitute teachers.

(a) Direct and indirect costs or savings to those affected:

1. First year: No change
2. Continuing costs or savings: No change
3. Additional factors increasing or decreasing costs (note any effects upon competition): No change

(b) Reporting and paperwork requirements: No change, except that for 1984-85 school districts desiring to use substitute teaching personnel with less than 64 semester hours of credit must document the need for using personnel with such low qualifications.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: This regulation revision will eliminate the paper work associated with issuing approximately 1,000 emergency certificates for substitute teaching each year to persons having less than 64 semester hours of academic credit and who are used very little for substitute teaching.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why

alternatives were rejected: This proposal is considered to be a desirable alternative to previous practice.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same requirements for certification.

EDUCATION AND HUMANITIES CABINET

Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 20:145. Media librarians.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS [13.082, 156.030,] 156.070, 161.030 [156.160]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of [for Elementary and Secondary] Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards [State Plan] for the [Approval of] Preparation- [Programs for the] Certification of Professional School Personnel.

Section 1. (1) The provisional certificate for school media librarian shall be issued in accordance with the pertinent Kentucky statutes and State Board of [for Elementary and Secondary] Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards [State Plan] for the [Approval of] Preparation- [Programs for the] Certification of Professional School Personnel as adopted in 704 KAR 20:005.

(2) Effective until December 31, 1984, the provisional certificate for school media librarian shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth-year program. The certificate may be extended for life upon completion of three (3) years of successful experience as a media librarian [within the duration period of the certificate] and upon completion of the planned fifth-year program.

(3) Effective January 1, 1985, the provisional certificate for school media librarian shall be issued and renewed in

accordance with the provisions of KSRS 161.030 and 704 KAR 20:045.

(4) [(3)] The provisional certificate for school media librarian shall be valid for serving as media librarian in grades kindergarten through grade twelve (12).

[Section 2. The program of preparation for the provisional certificate for school media librarian shall become effective for persons intending to prepare for a position of professional school library services and who begin in the preparation program during the 1975-76 school term and thereafter.]

Alice McDonald

Superintendent of Public Instruction

APPROVED BY AGENCY: September 12, 1984

FILED WITH LRC: September 14, 1984 at noon.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If not requests to testify have been received by that date, the above regulation will be removed from the agenda

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: James Fouche

(1) Type and number of entities affected: All applicants for the type of certificate named in this regulation—numbers vary.

(a) Direct and indirect costs or savings to those affected: Not applicable

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Not applicable

(2) Effects on the promulgating administrative body: Not applicable

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: Not applicable

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not applicable

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This is a technical change to incorporate the provisions of Senate Bill 19 (KRS 161.030) and its implementing regulation 704 KAR 20:045. All information about costs, effects, etc. are included in the regulatory impact analysis submitted with 704 KAR 20:045.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same curriculum, testing, and internship requirements for certification.

EDUCATION AND HUMANITIES CABINET

Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 20:150. Media specialists.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS [13.082, 156.030,] 156.070, 161.030[156.160]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of [for Elementary and Secondary] Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky *Standards [State Plan]* for the [Approval of] Preparation-[Programs for the] Certification of Professional School Personnel.

Section 1. (1) The standard certificate for school media specialist shall be issued in accordance with the pertinent Kentucky statutes and State Board of [for Elementary and Secondary] Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky *Standards [State Plan]* for the [Approval of] Preparation- [Programs for the] Certification of Professional School Personnel as adopted in 704 KAR 20:005.

(2) *Effective until December 31, 1984*, the standard certificate for school media specialist shall be issued initially for a duration period of ten (10) years except that when the curriculum requirements were completed more than ten (10) years prior to the date of certificate issuance the provisions of 704 KAR 20:050, Section 2, shall apply. The certificate shall be extended for life upon three (3) years of successful experience as a school media librarian or as a school media specialist completed prior to the expiration of the certificate. If the holder fails to meet the requirements for life extension by the end of the ten (10) year period, the certificate may be renewed for another ten (10) year period on the basis of two (2) years of experience as a school media librarian or as a school media specialist or on the basis of four (4) semester hours of additional graduate credit for each of the years of required experience.

(3) *Effective January 1, 1985*, the standard certificate for school media specialist shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(4) [(3)] The standard certificate for school media specialist may be endorsed to include the qualifications for

school media librarian and shall be valid for serving as a school media librarian or as a school media specialist.

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: September 12, 1984

FILED WITH LRC: September 14, 1984 at noon.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If not requests to testify have been received by that date, the above regulation will be removed from the agenda

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: James Fouche

(1) Type and number of entities affected: All applicants for the type of certificate named in this regulation—numbers vary.

(a) Direct and indirect costs or savings to those affected: Not applicable

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Not applicable

(2) Effects on the promulgating administrative body: Not applicable

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: Not applicable

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not applicable

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This is a technical change to incorporate the provisions of Senate Bill 19 (KRS 161.030) and its implementing regulation 704 KAR 20:045. All information about costs, effects, etc. are included in the regulatory impact analysis submitted with 704 KAR 20:045.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same curriculum, testing, and internship requirements for certification.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 20:159. Music, provisional certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS [13.082, 156.030,] 156.070, 161.030[156.160]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the state board. [Teachers and other professional school personnel must hold certificates of legal qualifications for their respective positions.] This regulation establishes an appropriate certificate for teachers of music.

Section 1. (1) The provisional certificate for teaching music shall be issued in accordance with the pertinent Kentucky statutes and State Board of [for Elementary and Secondary] Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards [State Plan] for the [Approval of] Preparation- [Programs for the] Certification of Professional School Personnel as adopted in 704 KAR 20:005.

(2) Effective until December 31, 1984, the provisional certificate for teaching music shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth-year program. The certificate may be extended for life upon completion of three (3) years of successful teaching experience on a regular certificate and upon completion of the planned fifth-year program.

(3) Effective January 1, 1985, the provisional certificate for teaching music shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(4) [(3)] The provisional certificate for teaching music shall be valid for teaching in grades kindergarten through twelve (12).

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: September 12, 1984

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PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If no requests to testify have been received by that date, the above regulation will be removed from the agenda

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: James Fouche

(1) Type and number of entities affected: All applicants for the type of certificate named in this regulation—numbers vary.

(a) Direct and indirect costs or savings to those affected: Not applicable

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Not applicable

(2) Effects on the promulgating administrative body: Not applicable

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: Not applicable

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not applicable

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This is a technical change to incorporate the provisions of Senate Bill 19 (KRS 161.030) and its implementing regulation 704 KAR 20:045. All information about costs, effects, etc. are included in the regulatory impact analysis submitted with 704 KAR 20:045.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same curriculum, testing, and internship requirements for certification.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 20:210. Substitute teachers.

RELATES TO: KRS 161.020, 161.025, 161.030, 161.100

PURSUANT TO: KRS [13.082, 156.030,] 156.070, 161.030, 161.100

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions. KRS 161.100 provides for the issuance of emergency certificates under specified circumstances. This regulation establishes a Certificate for Substitute Teaching and establishes the priority status of this certificate in comparison with other regular certificates and in comparison with emergency certificates.

Section 1. (1) The Certificate for Substitute Teaching shall be issued in accordance with the pertinent Kentucky

statutes and State Board of Education regulations to [an] applicants who hold a statement of eligibility for a particular type of Kentucky teaching certificate as provided in 704 KAR 20:045, Section 2(6) and (7), or who have [has] previously held [qualified for] any type of Kentucky certificate for classroom teaching for which the completion of a four (4) year program of teacher preparation and a bachelor's degree were required.

(2) The Certificate for Substitute Teaching shall be issued initially for a duration period of five (5) years and may be reissued or renewed upon recommendation of the employing school district superintendent.

(3) The Certificate for Substitute Teaching shall be valid only for substitute teaching. The certificate document shall show the type of preparation completed by the teacher and shall be valid for substitute teaching [in the area of preparation] only within the grade levels covered by the validity of the certificate. The Certificate for Substitute Teaching shall not be valid for continuous part-time employment for classroom teaching.

Section 2. Whenever substitute teachers must be employed to serve during the absence of the teacher of record for the position, [the following] priority [shall be observed] in [their] selection and employment shall be given first to:

(1) Teachers who hold regular certification for classroom teaching and teachers who hold the Certificate for Substitute Teaching, and if no teacher with such certification is available, then;

(2) Persons certified on an emergency basis for substitute teaching pursuant to 704 KAR 20:120, with such persons to be called in descending order according to the amount of college credit completed. [and who have sixty-four (64) semester hours credit or more of college preparation, and if none is available, then;]

[(3) Persons certified on an emergency basis for substitute teaching and who have less than sixty-four (64) semester hours of college preparation, but no less than high school graduation.]

ALICE McDONALD

Superintendent of Public Instruction

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PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If not requests to testify have been received by that date, the above regulation will be removed from the agenda

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: James Fouche

(1) Type and number of entities affected: From 100-400 persons who will be issued the certificate for substitute teaching every year.

(a) Direct and indirect costs or savings to those affected: No change

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: No change. (Each applicant files an application for teacher certification and upon approval the corresponding Kentucky teaching certificate is issued.)

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No change. (Each applicant files an application for teacher certification and upon approval the corresponding Kentucky teaching certificate is issued.)

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative—this regulation responds to the mandate of Senate Bill 19 relating to the teacher testing requirement.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No regulations in conflict—this change is for the purpose of bringing this regulation into compliance with the provisions of the new Senate Bill 19.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: Regulation revision also clarifies the language so as to comply with another proposed regulation provision for 704 KAR 20:120.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same requirements for certification.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 20:222. Industrial education teachers.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS [13.082, 156.030,] 156.070, 161.030 [156.160]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of [for Elementary and Secondary] Education. This regulation establishes the qualifications for teachers of industrial education-preparation level and implements the testing and internship requirements of KRS 161.030.

Section 1. The certificate for vocational education is established for issuance and renewal only for vocational teachers employed by the public schools or by the State Department of Education. The certificate may be issued for any health, technical, or trades and industrial occupational area for which programs may be offered under the Kentucky State Plan for Vocational Education. It is intended that these regulations implement the philosophy of industrial education as adopted by the Kentucky State Board of [for Elementary and Secondary] Education in

December, 1975, by means of the report "Industrial Education—A Merger of Industrial Arts and Trade and Industrial Education."

Section 2. (1) A certificate for teaching vocational education—industrial education, valid for teaching only the subjects stated on the face of the certificate, shall be issued for a duration period of one (1) year upon completion of the following requirements:

(a) High school graduation or its equivalence determined by evidence of an acceptable score on the general education development test administered by an approved testing center.

(b) Four (4) years of successful and appropriate occupational experience in the area to be taught. Adequacy of work experience shall be determined by the Department of Education. One (1) year of occupational experience shall be equated with 2,000 clock hours. A maximum of one (1) year of the required work experience may be satisfied by completion of an accredited preparatory vocational program for the occupation to be taught.

(c) The completion of three (3) semester hours credit in a foundations course in vocational, industrial, or career education and the completion of three (3) semester hours credit in course construction or curriculum development in vocational industrial education.

(d) *The completion of the testing and internship provisions as described in Section 6 of this regulation.*

(2) *Upon successful completion of the one (1) year internship, the certificate shall be renewed for subsequent one (1) year periods upon completion of a minimum of six (6) semester hours credit for each renewal selected from the sixty-four (64) semester hour planned program for the preparation of vocational teachers in industrial education-preparation level. The certificate shall not be subject to renewal more than ten (10) times. Credit granted for occupational proficiency shall not be applied toward the certificate renewal requirements. As a consequence of extenuating circumstances, such as severe illness or death in the family, which prevent the teacher from meeting the certificate renewal requirements, the Department of Education may authorize a renewal one (1) time without the completion of the additional credits when the circumstances are adequately documented and the situation merits approval.*

Section 3. A temporary certificate for vocational education-industrial education may be issued to a person who is initially employed during a school year and who meets the qualifications stated in Section 2(1)(a), (b) and (d) of this regulation. The certificate shall be issued for a duration period to expire on the next June 30 after issuance and shall not be renewed for full-time instructors.

Section 4. (1) A certificate for teaching vocational education-industrial education, valid for teaching only the subjects stated on the face of the certificate, shall be issued for a duration period of one (1) [five (5)] year[s] upon completion of the following requirements:

(a) The completion of a planned program consisting of a minimum of sixty-four (64) semester hours credit distributed as follows:

1. A general education component consisting of twenty (20) semester hours credit selected from the general education component of teacher preparation.

2. A specialization component consisting of twenty-four (24) semester hours credit selected from the specialization component of the curriculum standards for the provisional high school certificate with an area of concentration in industrial education-preparation level.

3. A professional education component consisting of twenty (20) semester hours credit in professional education to include at least twelve (12) semester hours selected from the professional education component of the curriculum standards for the provisional high school certificate with an area of concentration in industrial education-preparation level.

(b) The completion of four (4) years of occupational experience in the area to be taught or the completion of a minimum of 4,000 hours of supervised work experience.

(c) *The completion of the testing and internship provisions as described in Section 6 of this regulation.*

(2) *Upon successful completion of the one (1) year internship, the certificate shall be extended for the remainder of the five (5) year period. The certificate shall be renewed for subsequent five (5) year periods upon completion of any combination of two (2) years teaching or work experience in the occupational speciality plus the completion of an additional six (6) semester hours credit from an approved industrial education program. An additional three (3) semester hours credit may be substituted for any year of renewal experience which may be lacking.*

Section 5. A certificate for a vocational education specialist, valid for teaching the specific subject stated on the face of the certificate, shall be issued for a duration period of one (1) year upon the basis of a determination made by the Department of Education that the individual has unique knowledge or experience or special preparation that qualifies the person to be outstanding in the vocational subject to be taught and upon completion of the testing and internship provisions as described in Section 6 of this regulation.

Section 6. *In compliance with KRS 161.030, additional provisions for the issuance of certificates for vocational education—industrial education for the beginning teacher internship shall include: [A certificate for vocational education, valid for a part-time or short-term assignment, and for teaching the specific subject stated on the face of the certificate, shall be issued for a duration period of one (1) year on the basis of high school graduation or its equivalence and four (4) years of responsible work experience in the occupation to be taught.]*

(1) *An applicant having completed five (5) or more years of full-time acceptable teaching experience outside of the Commonwealth of Kentucky, who otherwise qualifies for certification, shall not be required to take the written tests or to participate in the beginning teacher internship program. An applicant who has held a regular Kentucky teaching certificate which as lapsed for failure to meet renewal requirements and who has completed five (5) or more years of full-time acceptable teaching experience, but who otherwise qualifies for the reissuance of a Kentucky teaching certificate, shall not be required to take the written tests or to participate in the beginning teacher internship program. In calculating the minimum of five (5) years of acceptable experience, full-time teaching shall be defined as continuous employment for at least a half day or more; full-time teaching for a major portion of a semester shall be counted as one-half (1/2) year, and full-time experience for the major portion of an academic year shall be counted as one (1) year. At least three (3) of the five (5) years of experience shall be in a position directly corresponding to the type of teaching certificate for which the application is being made.*

(2) *The completion of an approved program of preparation which corresponds to the certificate desired.*

(3) The completion of the written tests designated by the State Board of Education for:

- (a) General knowledge;
- (b) Communication skills;
- (c) Professional education concepts; and
- (d) Knowledge of the specific teaching field of the applicant, with minimum scores in each test as set by the State Board of Education.

(4) Evidence of full-time employment in a Kentucky school as attested by the prospective employer.

(5) Upon successful completion of the approved program of preparation and upon completion of the designated tests with acceptable scores, the Department of Education shall issue a statement of eligibility for employment which shall serve as evidence of eligibility for the one (1) year certificate once a teaching position is secured. The statement of eligibility shall be valid for a four (4) year period beginning from the date of issuance from the Department of Education and ending on the same date four (4) years later.

(6) The one (1) year certificate shall be issued effective from the date of employment and shall expire June 30 of the next calendar year. If the teacher's first year performance is judged to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the internship one (1) time through the reissuance of another one (1) year certificate if the teacher is re-employed for a second year.

(7) The first year of employment as a beginning teacher shall serve as the internship as described in KRS 161.030. The Superintendent of Public Instruction shall design, for state board approval, the plan which provides for the beginning teacher committee, the support services for the beginning teacher, the evaluation of the performance of the beginning teacher, the development of criteria and procedures for the evaluation of the performance of the beginning teacher, and the training of the evaluators who make up the beginning teacher committee.

(8) The one (1) year internship shall include a minimum of 140 days of full-time teaching experience.

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: September 12, 1984

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PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If no requests to testify have been received by that date, the above regulation will be removed from the agenda

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: James Fouche

(1) Type and number of entities affected: All applicants for the type of certificate named in this regulation—numbers vary.

(a) Direct and indirect costs or savings to those affected: Not applicable

- 1. First year:
- 2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Not applicable

(2) Effects on the promulgating administrative body: Not applicable

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: Not applicable

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not applicable

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This is a technical change to incorporate the provisions of Senate Bill 19 (KRS 161.030) and its implementing regulation 704 KAR 20:045. All information about costs, effects, etc. are included in the regulatory impact analysis submitted with 704 KAR 20:045.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same curriculum, testing, and internship requirements for certification.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 20:230. Hearing impaired; teacher's provisional certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS [13.082, 156.030,] 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate provisional certificate for teaching the hearing impaired and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. (1) The provisional certificate for teachers of exceptional children—hearing impaired shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has

completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005.

(2) *Effective until December 31, 1984*, the provisional certificate for teachers of exceptional children—hearing impaired shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth-year program. The certificate may be extended for life upon completion of three (3) years of successful teaching experience on a regular certificate and upon completion of a planned fifth-year program.

(3) *Effective January 1, 1985*, the provisional certificate for teachers of exceptional children—hearing impaired shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(4) [(3)] The provisional certificate for teachers of exceptional children—hearing impaired shall be valid at any grade level for the instruction of exceptional children who are hearing impaired and as a provisional elementary certificate valid for classroom teaching in grades one (1) through eight (8).

(5) [(4)] The provisional certificate for teachers of exceptional children—hearing impaired shall be issued for a one (1) year period to an applicant who holds the provisional elementary certificate or any other certificate of similar validity for elementary classroom teaching and who has completed at least six (6) semester hours credit from the special education component of the approved curriculum. As a prerequisite, the certificate application shall be accompanied by a statement from the superintendent of the local school district declaring that an emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position. The certificate may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum.

Alice McDONALD

Superintendent of Public Instruction

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PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If not requests to testify have been received by that date, the above regulation will be removed from the agenda

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: James Fouche

(1) Type and number of entities affected: All applicants for the type of certificate named in this regulation—numbers vary.

(a) Direct and indirect costs or savings to those affected: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This is a technical change to incorporate the provisions of Senate Bill 19 (KRS 161.030) and its implementing regulation 704 KAR 20:045. All information about costs, effects, etc., are included in the Regulatory Impact Analysis submitted with 704 KAR 20:045.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same curriculum, testing, and internship requirements for certification.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 20:235. Learning and behavior disorders; teacher's provisional certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS [13.082,] 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate provisional certificate for teaching exceptional children with learning and behavior disorders and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. (1) The provisional certificate for teachers of exceptional children—learning and behavior disorders shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005.

(2) *Effective until December 31, 1984* the provisional certificate for teachers of exceptional children—learning and behavior disorders shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth-year program. The certificate may be extended for life upon completion of three (3) years of successful teaching experience on a regular certificate and upon completion of a planned fifth-year program.

(3) *Effective January 1, 1985, the provisional certificate for teachers of exceptional children—learning and behavior disorders shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.*

(4) [(3)] The provisional certificate for teachers of exceptional children—learning and behavior disorders shall be valid at any grade level for the instruction of exceptional children with learning and behavior disorders and as a provisional elementary certificate valid for classroom teaching in grades one (1) through eight (8).

(5) [(4)] For a person who qualifies before the deadline date of September 1, 1984, the provisional certificate for teachers of exceptional children—learning and behavior disorders shall be issued for a one (1) year period to an applicant who holds the provisional elementary certificate or any other certificate of similar validity for elementary classroom teaching and who has completed at least six (6) semester hours credit from the special education component of the approved curriculum. As a prerequisite, the certification application shall be accompanied by a statement from the superintendent of the local school district declaring that an emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position. The certificate may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum. Three (3) years of teaching experience performed under a succession of one (1) year certificates in a full-time position requiring LBD certification shall be substituted for the special education portion of the student teaching requirement.

(6) [(5)] For a person who qualifies before the deadline date of September 1, 1984, the provisional certificate for teachers of exceptional children—learning and behavior disorders, valid for grades seven (7) through twelve (12), may be issued for a one (1) year period to an applicant who holds the provisional high school certificate or any other certificate of similar validity for secondary classroom teaching and who has completed at least six (6) semester hours of credit from the major in exceptional children—learning and behavior disorders and a three (3) semester hour course in reading. As a prerequisite, the certificate application shall be accompanied by a statement

from the superintendent of the local school district declaring that an emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position. The certificate may be renewed for subsequent one (1) year periods upon completion of at least six (6) semester hours of credit each year from the approved curriculum. Three (3) years of teaching experience performed under a succession of one (1) year certificates in a full-time position requiring LBD certification shall be substituted for the special education portion of the student teaching requirement.

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: September 12, 1984

FILED WITH LRC: September 14, 1984 at noon.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If not requests to testify have been received by that date, the above regulation will be removed from the agenda

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: James Fouché

(1) Type and number of entities affected: All applicants for the type of certificate named in this regulation—numbers vary.

(a) Direct and indirect costs or savings to those affected: Not applicable

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Not applicable

(2) Effects on the promulgating administrative body: Not applicable

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: Not applicable

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not applicable

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This is a technical change to incorporate the provisions of Senate Bill 19 (KRS 161.030) and its implementing regulation 704 KAR 20:045. All information about costs, effects, etc. are included in the regulatory impact analysis submitted with 704 KAR 20:045.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same curriculum, testing, and internship requirements for certification.

EDUCATION AND HUMANITIES CABINET

Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 20:240. Speech and communication disorders; teacher's provisional certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS [13.082, 156.030,] 156.070, 161.030 [156.160]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of [for Elementary and Secondary] Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards [State Plan] for the [Approval of] Preparation-[Programs for the] Certification of Professional School Personnel.

Section 1. (1) The provisional certificate for teachers of exceptional children—speech and communication disorders shall be issued in accordance with the pertinent Kentucky statutes and State Board of [for Elementary and Secondary] Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards [State Plan] for the [Approval of] Preparation-[Programs for the] Certification of Professional School Personnel as adopted in 704 KAR 20:005.

(2) *Effective until December 31, 1984*, the provisional certificate for teachers of exceptional children—speech and communication disorders shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth-year program. The certificate may be extended for life upon completion of three (3) years of successful teaching experience on a regular certificate and upon completion of a planned fifth-year program.

(3) *Effective January 1, 1985*, the provisional certificate for teachers of exceptional children—speech and communication disorders shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(4) [(3)] The provisional certificate for teachers of exceptional children—speech and communication disorders shall be valid at any grade level for the instruction of ex-

ceptional children with speech and communication disorders.

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: September 12, 1984

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PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If not requests to testify have been received by that date, the above regulation will be removed from the agenda

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: James Fouche

(1) Type and number of entities affected: All applicants for the type of certificate named in this regulation—numbers vary.

(a) Direct and indirect costs or savings to those affected: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This is a technical change to incorporate the provisions of Senate Bill 19 (KRS 161.030) and its implementing regulation, 704 KAR 20:045. All information about costs, effects, etc. are included in the Regulatory Impact Analysis submitted with 704 KAR 20:045.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same curriculum, testing, and internship requirements for certification.

EDUCATION AND HUMANITIES CABINET

Department of Education
(Proposed Amendment)

704 KAR 20:245. Trainable mentally handicapped; teacher's provisional certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS [13.082,] 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate provisional certificate for teaching exceptional children classified as trainable mentally handicapped and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. (1) The provisional certificate for teachers of exceptional children—trainable mentally handicapped shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005.

(2) *Effective until December 31, 1984*, the provisional certificate for teachers of exceptional children—trainable mentally handicapped shall be issued initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth-year program. The certificate may be extended for life upon completion of three (3) years of successful teaching experience on a regular certificate and upon completion of a planned fifth-year program.

(3) *Effective January 1, 1985*, the provisional certificate for teachers of exceptional children—trainable mentally handicapped shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(4) [(3)] The provisional certificate for teachers of exceptional children—trainable mentally handicapped shall be valid at any grade level for the instruction of exceptional children who are trainable mentally handicapped and as a provisional elementary certificate valid for classroom teaching in grades one (1) through eight (8).

(5) [(4)] The provisional certificate for teachers of exceptional children—trainable mentally handicapped shall be issued for a one (1) year period to an applicant who holds the provisional elementary certificate or any other certificate of similar validity for elementary classroom teaching and who has completed at least six (6) semester hours credit from the special education component of the approved curriculum. As a prerequisite, the certificate application shall be accompanied by a statement from the superintendent of the local school district declaring that an

emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position. The certificate may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum. Three (3) years of teaching experience performed under a succession of one (1) year certificates in a full-time position requiring TMH certification shall be substituted for the special education portion of the student teaching requirement.

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: September 12, 1984

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PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If no requests to testify have been received by that date, the above regulation will be removed from the agenda

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: James Fouche

(1) Type and number of entities affected: All applicants for the type of certificate named in this regulation—numbers vary.

(a) Direct and indirect costs or savings to those affected: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This is a technical change to incorporate the provisions of Senate Bill 19 (KRS 161.030) and its implementing regulation 704 KAR 20:045. All information about costs, effects, etc., are included in the Regulatory Impact Analysis submitted with 704 KAR 20:045.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same curriculum, testing, and internship requirements for certification.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 20:270. Certification for teachers of exceptional children.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS [13.082, 156.030,] 156.070, 161.030[156.160]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of [for Elementary and Secondary] Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky *Standards* [State Plan] for the [Approval of] Preparation- [Programs for the] Certification of Professional School Personnel.

Section 1. (1) The standard certificate for teachers of exceptional children shall be issued in accordance with the pertinent Kentucky statutes and State Board of [for Elementary and Secondary] Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky *Standards* [State Plan] for the [Approval of] Preparation- [Programs for the] Certification of Professional School Personnel as adopted in 704 KAR 20:005.

(2) Effective until December 31, 1984 the standard certificate for teachers of exceptional children shall be issued initially for a duration period of ten (10) years except that when the curriculum requirements were completed more than ten (10) years prior to the date of certificate issuance the provisions of 704 KAR 20:050, Section 2, shall apply. The certificate shall be extended for life upon completion of three (3) years of successful teaching experience performed under a regular teaching certificate and completed prior to the expiration of the standard certificate. If the requirements for life extension have not been completed by the end of each ten (10) year period, the certificate may be renewed at the end of each ten (10) year period upon completion of two (2) years of successful teaching experience or upon six (6) semester hours of graduate credit for each of the years required experience.

(3) Effective January 1, 1985, the standard certificate for teachers of exceptional children shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(4) [(3)] The standard certificate for teachers of excep-

tional children *grades K-12 shall be issued to applicants whose related preparation includes qualifications for the provisional elementary certificate and shall be valid at any grade for the instruction of exceptional children in the classification of exceptionality described on the certificate. The standard certificate for teachers of exceptional children grades 7-12 shall be issued to applicants whose related preparation includes qualification for the provisional high school certificate and shall be valid for the classifications of exceptionality described on the certificate. The standard certificate for teachers of exceptional children—speech and communication disorders shall be valid for grades kindergarten through twelve (12).*

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: September 12, 1984

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PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If not requests to testify have been received by that date, the above regulation will be removed from the agenda

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: James Fouche

(1) Type and number of entities affected: All applicants for the type of certificate named in this regulation—numbers vary.

(a) Direct and indirect costs or savings to those affected: Not applicable

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Not applicable

(2) Effects on the promulgating administrative body: Not applicable

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: Not applicable

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not applicable

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This is a technical change to incorporate the provisions of Senate Bill 19 (KRS 161.030) and its implementing regulation 704 KAR 20:045. All information about costs, effects, etc. are included in the regulatory impact analysis submitted with 704 KAR 20:045.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same curriculum, testing, and internship requirements for certification.

EDUCATION AND HUMANITIES CABINET

Department of Education
Office of Vocational Education
(Proposed Amendment)

705 KAR 4:010. General standards.

RELATES TO: KRS 156.031, 163.020, 163.030, 163.087

PURSUANT TO: KRS 156.031, 163.030, 163.087

NECESSITY AND FUNCTION: KRS 156.031 gives the State Board of Education the function and authority to develop and adopt policies and regulations by which the Department of Education is to be governed in planning, coordinating, administering, supervising, operating, and evaluating occupational education programs, services, and activities; and KRS 163.020 and 163.030 mandate a state vocational education program with certain purposes; and KRS 163.087 gives the State Board authority to set fees. This regulation establishes general standards for all vocational education programs.

Section 1. Vocational education programs shall be designed to serve one (1), or combinations, of the following groups of persons: secondary, postsecondary, short term adult, long term adult, disadvantaged, and handicapped. Instructional programs will not discriminate on the basis of race, color, national origin, age, religion, marital status, sex, or handicap.

Section 2. Vocational instruction shall be provided to serve occupations within the following vocational program areas: agribusiness, business and office, health and personal services, home economics, industrial, marketing and distributive, practical arts, public service, and special vocational.

Section 3. Objectives of the instruction shall be designed to: (1) Prepare individuals for gainful employment as semi-skilled or skilled workers, technicians, or semi-professionals in recognized occupations and in new or emerging occupations; or

(2) Prepare individuals for enrollment in advanced or highly skilled vocational and technical education programs; or

(3) Assist individuals in the career development process of career awareness and indepth career exploration necessary for making meaningful occupational choices; or

(4) Up-grade and up-date individuals in their present occupations; or

(5) Achieve any combination of the above.

Section 4. The content of instruction in vocational education programs shall: (1) Be based on a consideration of the skills, attitude, and knowledge required to achieve the objective of such instruction and include a planned sequence of those essentials of education or experience (or both) deemed necessary for the individual to achieve such objectives.

(2) Be developed and conducted in consultation with potential employers and other individuals having skills and substantive knowledge of the occupation or the occupational fields included in instruction.

(3) Include the most up-to-date knowledge and skills necessary for competencies required to meet the objectives of such instruction.

(4) Be sufficiently extensive in duration and intensive within a scheduled unit of time to enable the student to achieve the objectives of instruction.

Section 5. The vocational program of instruction shall combine and coordinate classroom instruction with field, shop, laboratory, cooperative work, or other occupational experience which:

(1) Is appropriate to the objectives of instruction,

(2) Is of the sufficient duration to develop competencies necessary for the student to achieve such objectives, and

(3) Is supervised, directed, or coordinated by persons qualified under the Kentucky State Plan for the Administration of Vocational Education.

Section 6. Secondary vocational education programs shall provide a variety of learning experiences and related services. Programs in grades seven (7) and eight (8) shall be coordinated to allow students to explore clusters of occupations. Programs at grades nine (9) and ten (10) shall provide indepth exploration courses by occupational area. Programs at grades eleven (11) and twelve (12) shall provide specialized skill development to make individuals more employable in one (1) group of occupations than any other. Students enrolled in public or private schools shall be permitted to enroll in state-operated vocational programs consistent with that school's student enrollment quota for cooperating local school districts.

Section 7. Long-term adult (postsecondary) programs shall be designed for occupational preparation of persons sixteen (16) years of age or older who have completed or left the regular high school. The programs shall be organized on a full-time basis during the day or evening hours. Students may enroll in all or any part of the scheduled program. The initial registration fee for half-time and full-time in-state, adult students in state-operated schools shall be twenty (20) dollars for FY '85 and FY '86; and for out-of-state students, forty (40) dollars for FY '85 and FY '86. The monthly tuition for half-time, in-state adult students shall be five (5) dollars in FY '85 and eight (8) dollars in FY '86; and for out-of-state students, twenty-five (25) dollars for FY '85 and thirty (30) dollars for FY '86. The monthly tuition for full-time, in-state adult students shall be ten (10) dollars for FY '85 and sixteen (16) dollars for FY '86; and for out-of-state students, fifty (50) dollars for FY '85 and sixty (60) dollars for FY '86. The fees and tuition for FY '86 shall be continued until changed by the State Board of Education.

Section 8. Short-term adult programs shall be designed to meet the needs of persons who have entered the labor market or are temporarily unemployed and who need training in preparing or supplementing knowledge and skills for employment and/or job advancement. Courses shall consist of either single or multiple units of intensive instruction. The fees for adult short-term classes for one (1) to eleven (11) hours of instruction per week shall be twenty-five (25) cents per hour for in-state and out-of-state students for FY '85 and FY '86. These fees shall be in effect until such time as the State Board changes them.

Section 9. The vocational program shall be designed to accommodate students with special learning needs mainstreamed into the regular program. Special vocational programs in specific occupational areas or incorporating a

variety of occupational areas shall be permitted when the handicapped conditions warrant.

Section 10. Instructional personnel in vocational education *except teachers of short-term adult programs* shall be [qualified and] fully certified under the provisions of the Kentucky State Plan for Vocational Education and other regulations of the State Board of Education. Work experience requirements not included as a part of certification programs shall be approved by the Superintendent of Public Instruction. *Persons employed to teach short-term adult programs shall request approval of their work experience and/or other qualifications from the Office of Vocational Education. A statement approval shall be issued to qualified individuals for teaching the specific subject of the program.*

Section 11. All instructional personnel shall attend district, regional, or state in-service education meetings called and/or approved by the Superintendent of Public Instruction when such meetings are reimbursed by funds from the Office [Bureau] of Vocational Education. Instructional personnel may be excused by the local superintendent when the reasons are justified and submitted in writing to the Superintendent of Public Instruction.

Section 12. Annual plans for vocational programs and applications for funds for the next school year shall be submitted by local educational agencies to the regional program coordinator for vocational education by April 15. The program plan shall be reviewed by the regional staff and the Office [Bureau] of Vocational Education staff and approved by the Superintendent of Public Instruction prior to program implementation.

Section 13. Recognized vocational student organizations shall be an integral part of the instructional program and shall be supervised by qualified vocational education personnel.

Section 14. Each occupational preparation program area shall have an active program advisory committee to assist in planning, implementing, and evaluating programs.

Section 15. A continuous evaluation of the vocational education program shall be conducted by the local educational agency in accordance with requirements and instruments developed or approved by the Department of Education and by the local educational agency to determine the effectiveness of the program in terms of its objectives. The evaluation shall include a follow-up of students after their termination from the program. The Superintendent of Public Instruction shall designate the records and reports to be kept by local educational agencies operating approved vocational education programs. Staff from the Department of Education shall make periodic evaluation visits for program improvement purposes.

Section 16. Where applicable, all vocational education programs shall operate according to guidelines developed by state and/or national licensure, certification, and registration agencies having jurisdiction over graduates who seek employment in occupations governed by such agencies.

Section 17. Classrooms, libraries, shops, laboratories, and other facilities, including instructional equipment, supplies, teaching aids, and other materials, shall be provided in quantity and quality to meet the objectives in the vocational instruction. Although the amount of supplies

needed by each class will vary in local districts, the districts shall provide an appropriate portion of the operating money allotted with each vocational unit. The facilities for any vocational education program shall be of adequate size and design to accommodate the activities and number of work stations unique to each program. Facilities and equipment shall be approved by the Superintendent of Public Instruction.

Section 18. Vocational preparation programs shall provide a curriculum of sufficient length to permit students to secure entry-level skills in the occupations for which they are training. They shall conform to the requirements in the Kentucky Program of Studies.

Section 19. Minimum and maximum class size shall be based on program design and available facilities. No class shall be offered for less than ten (10) students.

Section 20. A five (5) dollar shop fee shall be charged for each live work project accepted by the school requiring more than one (1) hour of labor. No shop fees shall be charged for projects in schools located in correctional institutions. Student exemptions may be made in compliance with written school policies. Customers will purchase the necessary materials for a shop job or be charged the cost of the materials plus twenty (20) percent markup when they do not provide their own materials. Cosmetology charges shall be based on the State Cosmetology Board requirements.

Section 21. A vocational school may be permitted to provide an optional senior plan for students from secondary schools being served by that vocational school. A senior plan provides that a student may choose to attend a vocational school for six (6) hours a day while enrolled in a high school for the senior year. The local district shall receive ADA credit for students participating in this plan.

(1) The vocational school requesting permission to implement an optional senior plan shall receive approval from the State Superintendent of Public Instruction in accordance with this and other Kentucky Administrative Regulations.

(2) For ADA calculation purposes, students accepted in the senior plan shall be enrolled in a public school in Kentucky.

(3) The local school superintendent shall certify that students participating in this program will be eligible for graduation upon successful completion of the program.

(4) An annual evaluation of the senior plan shall be submitted to the State Board.

(5) With approval of the local board of education, a local high school may choose to participate in the senior plan. Individual students will have the option of participating in the senior plan or the usual plan of attending a vocational school three (3) hours a day for the junior and senior year.

(6) Participation in the senior plan shall in no way jeopardize the student's high school standing in terms of participation in other high school activities. Participation in the high school activities shall be the responsibility of the local board of education and appropriate arrangements for such participation will be ensured by the vocational school.

Section 22. Requests for exceptions to any standards for vocational instructional programs shall be submitted in writing by the local educational agency, recommended by the appropriate program unit director, and approved by the Superintendent of Public Instruction. Exceptions shall be limited to experimental programs, innovative programs,

and unusual cases and shall be approved on an individual and annual basis.

Alice McDonald

Superintendent of Public Instruction

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PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If no requests to testify have been received by that date, the above regulation will be removed from the agenda

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Audrey Carr

(1) Type and number of entities affected: 85 vocational-technical schools in 14 vocational regions.

(a) Direct and indirect costs or savings to those affected: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Decreases some paperwork for applicants.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Paperwork will be somewhat reduced as review of work experience and/or other qualifications will be reviewed, but not in as many divisions.

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This regulation change is necessary to maintain standards related to teacher qualifications but be consistent with regulations related to teacher certification, testing and granting of certificates.

Tiering:

Was tiering applied? Yes.

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance (Proposed Amendment)

806 KAR 2:090. Fee for collecting city or urban county government insurance tax.

RELATES TO: KRS 91A.080

PURSUANT TO: KRS Chapter 13A, [13.082,] 91A.080, 304.2-110

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and regulations necessary for and as an aid to the effectuation of any provision of the Kentucky Insurance Code. *KRS 91A.080 requires the Commissioner of Insurance to adopt regulations providing for a reasonable collection fee to compensate insurers and insurance agents for collecting Kentucky municipal premium taxes.* This regulation provides for a reasonable collection fee to be charged by an insurance company or its agent for collecting or remitting to a city or urban county government such taxes or fees required by its ordinances for the privilege of engaging in the business of insurance within that city or urban county government.

Section 1. A reasonable collection fee shall be an amount equal to *fifteen (15)* [thirty (30)] percent of the license fee or tax collected and remitted to the city or urban county government or two (2) percent of the premium subject to the license fee or tax, whichever is less. The license fees or taxes to be collected and remitted may be rounded off to the nearest whole dollar.

GIL McCARTY, Commissioner
MELVIN WILSON, Secretary

APPROVED BY AGENCY: September 13, 1984

FILED WITH LRC: September 14, 1984 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing concerning the proposed regulation will be held on October 22, 1984, at 9 a.m. (ET) in the offices of the Kentucky Department of Insurance, 229 West Main Street, Frankfort, Kentucky 40601. Persons with an interest in the subject matter of the proposed regulation may submit written comments to Gil McCarty, Commissioner, Kentucky Department of Insurance, P.O. Box 517, Frankfort, Kentucky 40602.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Patrick Watts

Need for the Proposed Amendment: The proposed amendment is necessary to bring the regulation into conformity with changes with KRS 91A.080 by HB 4 (1984 Ky. Acts c. 170, eff. January 1, 1985). HB 4 reduces the collection fee paid to insurers from 30% of the tax or 2% of the premium subject to tax, whichever is less, to 15% of the tax or 2% of the premium subject to tax, whichever is less.

Type and number of entities affected: The proposed regulation reflects statutory changes which have an impact upon the over 1,100 insurers authorized to do business in Kentucky and their agents (approximately 30,000), the approximately 90 eligible surplus lines insurers, and the approximately 95 surplus lines brokers.

1. Direct or Indirect Cost or Savings to Those Affected: None

2. Reporting and Paperwork Requirements: None.

Effects on the Promulgating Administrative Body: None

Assessment of Anticipated Effect on State and Local Revenues: None

Assessment of Alternative Methods; Reasons Why

Alternatives Were Rejected: The proposed amendment is necessary to reflect statutory changes. Regulations must reflect accurately the underlying statute.

Statutes, Rules, Regulations, or Governmental Policies Which May Conflict, Overlap, or Duplicate the Proposed Regulations: None

Tiering:

Was tiering applied? No. Tiering was not applied due to the technical nature of the proposed amendment.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Fee for Collecting City or Urban County Government Insurance Tax.

SPONSOR: Department of Insurance

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE: No

TYPE OF MANDATE:

LEVEL(S) OF IMPACT: City

BUDGET UNIT(S) IMPACT:

FISCAL SUMMARY:

MEASURE'S PURPOSE: Prescribe collection fee for insurers for municipal premium taxes.

PROVISION/MECHANICS: Insurers are permitted to take a collection fee of 15% of the tax or 2% of the premium, whichever is less.

FISCAL EXPLANATION: Collection fees are assessed policyholders, therefore, there is no fiscal impact on local government.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Proposed Amendment)

806 KAR 2:095. Accounting and reporting requirements for collecting insurance tax.

RELATES TO: KRS 91A.080, 304.4-010

PURSUANT TO: KRS Chapter 13A, [13.082, 91A.080, 304.2-110]

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and regulations necessary for and as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 91A.080 authorizes the Commissioner of Insurance to adopt regulations for the collection and reporting of municipal premium taxes. This regulation provides for the accounting and reporting procedures to be used by every insurance company or its agent, to which this regulation applies, for the collection and reporting of the fees or taxes and the collection fee herein provided by ordinance of a city or urban county government for engaging in the business of insurance therein.

Section 1. Definitions. As used in this regulation, (1) "Commissioner" means the Commissioner of the Kentucky Department of Insurance.

(2) "Municipal premium taxes" means taxes levied pursuant to KRS 91A.080.

(3) "Premiums actually collected within a calendar quarter" means premiums which have been received at an insured's home, administrative, or regional offices within a calendar quarter. Agency contracts which allow agents a period of time in which to forward premium payments to insurers shall not allow an unreasonably long period of time. An agency contract which allows an agent more than ninety (90) days to forward premium payments to an insurer is presumed to allow an unreasonably long period of time. This presumption may be rebutted by appropriate

evidence. [Every insurance company to which this Act applies shall provide, in accordance with the ordinance of each city or urban county government, an accounting, to the commissioner, only on a form to be prescribed by the commissioner, with a copy or abstract thereof to each such governmental unit, which shall include all premiums collected for which the tax or license fee is payable together with the amount of such tax or license fee collected and remitted to each city or urban county government. Every such insurance company shall maintain records which shall be adequate to substantiate such accounting. The accounting required herein shall be filed with the commissioner and each such city or urban county government on or before April 1 of each year following the calendar year to which the accounting applies.]

Section 2. Quarterly payment and reporting of municipal premium taxes. Each insurer with municipal premium tax liability shall make payment of its tax liability based on premiums actually collected within a calendar quarter. Payment shall be made within thirty (30) days of the end of each calendar quarter. Insurers shall make their returns on forms prescribed by the commissioner (or forms substantially similar to those prescribed by the commissioner) or on forms prescribed by cities or urban-county governments. At its option, an insurer may make quarterly payments on an estimated basis. If quarterly payments are made on an estimated basis, each quarterly payment shall be equal to at least twenty-five (25) percent of the municipal premium taxes paid for the preceding calendar year. At the close of the last calendar quarter of the year, insurers making estimated quarterly payments shall pay any additional tax due on premiums actually collected during the calendar year. Insurers paying municipal premium taxes on an estimated basis shall make their returns on forms as prescribed in this section. Copies of these forms shall not be filed with the commissioner unless the commissioner directs that returns be filed with the commissioner.

Section 3. Annual Reports. (1) Insurers shall furnish each city and urban-county government to which municipal premium taxes have been paid during the preceding calendar year a report on the municipal premium taxes paid during the preceding calendar year. A copy of this report shall be filed with the commissioner accompanied by a fee of five (5) dollars per insurer.

(2) The reports required by this section shall be filed with cities and urban-county governments and with the commissioner by March 31st of each year following the calendar year to which the reports apply.

(3) The reports required by this section shall be on a form prescribed by the commissioner (or on a form substantially similar to that prescribed by the commissioner).

(4) The form prescribed by the commissioner shall contain the following information:

(a) An itemization of all premiums collected for which a municipal premium tax is payable together with the amount of such tax collected and paid to each city or urban-county government for the following kinds of insurance:

1. Casualty;
2. Fire and allied perils;
3. Health;
4. Inland marine;
5. Life;
6. Motor vehicle; and
7. Such other kinds of insurance as the commissioner may designate.

(b) Such other information as the commissioner may designate.

Section 4. Each insurer shall maintain records adequate to support the reports required by this regulation. This section applies to insurance agents and surplus lines brokers to the extent they are responsible for collecting and paying municipal premium taxes imposed pursuant to KRS 91A.080.

Section 5. Each insurer must file the reports required by this regulation. Data filed on a group basis is unacceptable.

GIL McCARTY, Commissioner
MELVIN WILSON, Secretary

APPROVED BY AGENCY: September 14, 1984

FILED WITH LRC: September 14, 1984 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing concerning the proposed regulation will be held on October 22, 1984, at 9 a.m. (ET) in the offices of the Kentucky Department of Insurance, 229 West Main Street, Frankfort, Kentucky 40601. Persons with an interest in the subject matter of the proposed regulation may submit written comments to Gil McCarty, Commissioner, Kentucky Department of Insurance, P. O. Box 517, Frankfort, Kentucky 40602.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Patrick Watts

Need for the Proposed Regulation: The proposed regulation is necessary to implement HB 4 (1984 Ky. Acts c. 170, eff. January 1, 1985), which amended KRS 91A.080, the municipal premium tax statute. HB 4 requires quarterly payment of municipal premium taxes and proposed Section 2 echoes those requirements. As to annual reports of municipal premium taxes (Section 3), the proposed regulation requires a fee of \$5.00 per insurer for filing these reports. The proposed amendments prescribe a form for quarterly returns and annual reports. This form will be substantially identical to a form currently in use.

Type and Number of Entities Affected: The proposed regulation will affect the over 1,100 insurers authorized to do business in Kentucky. It will also have some impact upon the approximately 90 surplus lines insurers eligible to do business in Kentucky and the approximately 95 surplus lines brokers licensed in Kentucky.

1. Direct or Indirect Cost or Savings to Those Affected: The \$5.00 fee imposed for filing annual reports is authorized by KRS 304.4-010(18)(a), which permits the commissioner to charge \$5.00 for "filing of their documents." Assuming 1,100 insurers file reports, this will impose \$5,500.00 in cost on the insurance industry. The actual cost will probably be somewhat less in that not all of the 1,100 authorized insurers will be subject to municipal premium taxes.

2. Reporting and Paperwork Requirements: The proposed regulation attempts to simplify quarterly returns and annual reports by using the same form for both types of filings. Insurers are permitted to use forms substantially similar to those prescribed by the commissioner, which will accommodate insurers which produce reports from computerized data. Also, quarterly returns will not be filed with the commissioner unless he directs an insurer to do so.

Effects on the Promulgating Administrative Body: The proposed amendments will not significantly increase the burdens on the Department of Insurance. The current version of this regulation requires annual reports and the proposed amendments do not expand on this.

Assessment of anticipated Effect on State and Local Revenues: The \$5.00 fee for filing insurers' annual accountings of municipal premium taxes may yield as much as \$5,500.00 for the general fund.

Assessment of Alternative Methods; Reasons Why Alternatives Were Rejected: The proposed amendments are necessary to bring the regulation into conformity with the changes in KRS 91A.080 made by HB 4. Regulations must reflect accurately underlying statutory provisions.

Statutes, Rules, Regulations, or Governmental Policies Which May Conflict, Overlap or Duplicate the Proposed Regulation: None

Tiering:

Was tiering applied? Tiering has been applied by recognizing agency contracts which are on an "account current" basis and by permitting quarterly payments on an estimated basis.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Accounting and Reporting for Collecting Insurance Tax

SPONSOR: Department of Insurance

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE: No

TYPE OF MANDATE:

LEVEL(S) OF IMPACT: City

BUDGET UNIT(S) IMPACT:

FISCAL SUMMARY:

MEASURE'S PURPOSE: Establishes procedures for collecting and reporting municipal premium taxes.

PROVISION/MECHANICS: Quarterly returns and payments are filed with cities based on premiums actually collected within the preceding calendar quarter. Annual reports must be filed with cities and with the department.

FISCAL EXPLANATION: No impact upon city governments.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Insurance
(Proposed Amendment)

806 KAR 43:010. Prepaid dental plan organization agent license.

RELATES TO: KRS 304.43-080

PURSUANT TO: KRS 13.082, 304.43-080

NECESSITY AND FUNCTION: KRS 304.43-080 provides that the Commissioner shall promulgate rules and regulations necessary for licensure of prepaid dental plan organization agents. This regulation sets forth basic procedures to acquire and to keep an agent license.

Section 1. Definitions. (1) As used in this regulation, "agent" has the meaning set forth in KRS 304.43-010(1).

(2) "Profit or pecuniary gain" as used in KRS 304.43-010(1) means any type of compensation that a person receives directly or indirectly from the prepaid dental plan organization for which the solicitation or enrollment of members is made.

Section 2. To qualify for an agent's license, an applicant shall:

(1) Be above the age of eighteen (18) years;

[(2) Be a bona fide resident of and actually reside in this state;]

(2) [(3)] Be competent, trustworthy, financially responsible, and of good reputation;

(3) [(4)] Pass a written examination required for the

license by the Commissioner, *except when the applicant is a nonresident who has filed with the commissioner a certification from his home state that the applicant is licensed in good standing as an agent for health insurance, dental insurance, or prepaid dental plan organizations;*

(4) [(5)] Be appointed as an agent by one (1) or more corporations subject to the provisions of KRS Chapter 304.43;

(5) [(6)] Make application to the Commissioner in the manner and form prescribed by him; and

(6) [(7)] Pay the fee provided in KRS 304.4-010.

Section 3. Agents licenses shall expire as of midnight on March 31, 1983, and biennially thereafter, unless the licensee prior thereto has filed with the Commissioner on forms prescribed and furnished by him, a request for continuation of license for an ensuing biennium, except that any request for continuation received by the Commissioner after such March 31 and prior to the next following June 30 may be accepted and effectuated by the Commissioner if accompanied by a penalty as provided in KRS 304.99-100.

Section 4. (1) Each corporation qualified under KRS Chapter 304.43 appointing an agent shall notify the Commissioner by filing written notice in duplicate with the Commissioner on forms prescribed and furnished by him, and shall pay the fee as provided in KRS 304.4-010. If the agent is then licensed, or as soon as licensed, the Commissioner shall mail the appointment certificate to the corporation.

(2) Each appointment shall continue in force until:

(a) The Commissioner notifies the corporation that the agent's license is suspended or revoked;

(b) The appointment is revoked by the corporation by written notice of revocation filed with the Commissioner; or

(c) The corporation fails to renew the appointment.

Section 5. The Commissioner may suspend, revoke, or refuse to renew any license issued under this regulation, for any of the following causes:

(1) For any cause for which the issuance of the license could have been refused had it then existed and been known to the Commissioner;

(2) If the licensee willfully violates or knowingly participates in the violation of any provision of KRS Chapter 304.43 or this regulation;

(3) If the licensee obtains or attempts to obtain a license through unfair, false, misleading, or deceptive practices, or fails to pass any examination required by the Commissioner;

(4) If the licensee has materially misrepresented the terms or effect of any membership contract, or has engaged or is about to engage in any fraudulent transactions;

(5) If the licensee has been guilty of misrepresentation or rebating, as defined in KRS Chapter 304.12;

(6) If the licensee has been convicted, by final judgment, of a felony involving moral turpitude;

(7) If in the conduct of his affairs under the license, the licensee has shown himself to be and is deemed by the Commissioner to be, incompetent or untrustworthy;

(8) If the licensee exercises powers outside the scope of his license;

(9) If the licensee misappropriates or converts to his own use or illegally withholds monies received in the conduct of his business under the license, belonging to

enrollees, members, the prepaid dental plan organization, or others.

GIL McCARTY, Commissioner
MELVIN WILSON, Secretary

APPROVED BY AGENCY: September 13, 1984

FILED WITH LRC: September 14, 1984 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing concerning the proposed regulation will be held on October 22, 1984, at 1 p.m. (ET) in the offices of the Kentucky Department of Insurance, 229 West Main Street, Frankfort, Kentucky 40601. Those interested in attending this hearing shall submit written comment at least five days before the hearing to: Gil McCarty, Commissioner, Kentucky Department of insurance, P.O. Box 517, Frankfort, Kentucky 40602.

806 KAR 43:010-2

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Patrick Watts, Counsel, (502) 564-6036

Need for the Proposed Regulation: The proposed regulation is necessary to permit nonresidents to be licensed as prepaid dental plan organization agents. It exempts nonresidents from the written examination requirement if they are licensed in good standing in their home states.

Type and number of entities affected: The proposed amendments will affect the three prepaid dental plan organizations authorized to do business in Kentucky.

1. Director or Indirect Cost or Savings to Those Affected: There will be cost associated with licensing nonresidents, but the proposed amendment merely permits nonresidents to be licensed, leaving each prepaid dental plan organization to decide whether it wants to have nonresidents as its agents.

2. Reporting and Paperwork Requirements: Nonresidents must submit the same forms as other applicants for agent licenses. These are an application form and an appointment form.

Effects on the Promulgating Administrative Body: The number of nonresidents seeking prepaid dental plan organization agent licenses will be small and there are procedures established to deal with applications for agents licenses. Therefore, there should be only a minimal impact on the department.

Assessment of Anticipated Effect on State and Local Revenues: There may be a slight increase in revenue due to nonresidents paying license fees (\$40.00 per prepaid dental plan organization represented. KRS 304.4-010(11)).

Assessment of Alternative Methods; Reasons Why Alternatives were Rejected: In order to license nonresidents, the proposed amendments must be adopted because under the current regulation, only residents can be licensed.

Statutes, Rules, Regulations, or Governmental Policies Which May Conflict, Overlap, or Duplicate the Proposed Regulation: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Tiering is applied in that nonresidents are exempted from the written examination if they are licensed in good standing in their home states. All others must take the written examination.

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Maternal and Child Health
Metabolic Screening Program
(Proposed Amendment)

902 KAR 4:030. Tests for inborn errors of metabolism.

RELATES TO: KRS 214.155

PURSUANT TO: KRS [13.082,] 194.050, 211.090, 214.155

NECESSITY AND FUNCTION: The Cabinet for Human Resources is authorized by KRS 214.155 to require infants to be tested for inborn errors of metabolism, including but not limited to phenylketonuria (PKU), and to establish a schedule of fees to cover the actual costs to the cabinet for testing samples for errors of inborn metabolism. The purpose of this regulation is to require infants to be tested for phenylketonuria (PKU), galactosemia, and hypothyroidism, which are inborn errors of metabolism, and to establish the schedule of fees to cover actual costs of testing.

Section 1. Tests for Inborn Errors of Metabolism for Newborn Babies. (1) Except as otherwise provided in KRS 214.155(2), the administrative officer, or other person in charge of the hospital or other institution caring for infants twenty-eight (28) days or less of age and the attending physician or midwife shall cause to have administered to every such infant in its or his care a blood test to detect phenylketonuria, galactosemia, and hypothyroidism. In the event a baby is not born in a hospital or institution, the attending physician or midwife shall be solely responsible for causing such tests to be administered.

(2) *A blood specimen must be obtained from each infant before he or she leaves the hospital regardless of the age of the infant. All infants screened prior to forty-eight (48) hours of life must be rescreened prior to three (3) weeks of life.*

(3) *All infants being treated with antibiotics when the original test was taken must be re-tested seven (7) days after completing the antibiotic treatment.*

(4) *All ill, premature, or infants receiving parenteral feeding still hospitalized on the seventh day of life must be tested on that day. If a child is on parenteral feeding a repeat should be done following initiation of routine oral feeding.*

(5) [(2)] Hospitals and institutions may submit blood samples to the Cabinet for Human Resources, Department for Health Services, Laboratory Services, 275 East Main Street, Frankfort, Kentucky 40621, or in lieu thereof conduct their own testing program, in which event the cabinet shall be notified and the laboratory procedures approved. A private laboratory shall be required by the cabinet to demonstrate its proficiency in the performance of such tests. Positive results shall be reported within twenty-four (24) hours to [the cabinet and to] the attending physician. *Positive results shall be reported to the Cabinet for Human Resources in accordance with KRS 214.155.*

(6) *All hospitals that conduct their own testing for congenital hypothyroidism or send the blood samples to a private laboratory must perform a TSH on all blood samples whose initial T4 test resulted in a low value level.*

(7) *All hospitals which do their own testing or send their blood specimens to a private laboratory for testing must complete semi-annual or other reports concerning such testing as requested by the Division of Laboratory Services or the Division of Maternal and Child Health.*

(8) [(3)] *Hospitals submitting blood samples to the Cabinet for Human Resources shall be assessed for each test according to the following schedule [Fees are to be assessed for each test according to the following schedule]:*

PKU only	\$ 2.25 per test
Galactosemia only	\$ 2.00 per test
Hypothyroidism	\$ 5.75 per test
Combination test for all three	\$10.00 [per test]

All fees due the Cabinet for Human Resources shall be collected through a monthly billing system.

C. HERNANDEZ, M.D., Commissioner
 E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 13, 1984

FILED WITH LRC: September 14, 1984 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 22, 1984, at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by October 17, 1984: R. Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, KY 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Beth Harp

(1) Type and number of entities affected: 1) Sets up guidelines for submitting and testing of blood specimens as follows:

a. A blood specimen must be obtained from each infant before he or she leaves the hospital.

b. All infants screened prior to forty eight (48) hours of life must be rescreened prior to three (3) weeks of life.

c. All infants being treated with antibiotics when the original screen was done must be rescreened seven (7) days after completing the antibiotic treatment.

d. All ill, premature, or infants receiving parenteral feeding still hospitalized on the seventh day of life must be screened on that day. If a child is on parenteral feeding a repeat should be done following initiation of routine oral feeding.

Sets up requirements for screening and reporting requirements for hospitals who perform their own screening as follows:

a. Positive results shall be reported to the Cabinet for Human Resources in accordance with KRS 214.155.

b. TSH test must be performed on all infants whose initial T4 test resulted in a low value level.

c. The hospitals who do their own testing must complete reports concerning the screening tests as required by the Division for Laboratory Services and the Division for Maternal and Child Health.

(a) Direct and indirect costs or savings to those affected: By implementing these regulations the Division for Maternal and Child Health hopes to lessen the possibility of a child not receiving his or her screen. A child not diagnosed could cost the state in the future as much as \$30,000 per year in institutionalization costs.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: The hospitals doing their screens would be required to submit semi-annual, positive results, and other reports pertinent to Metabolic Screening as requested.

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: Regulation does not change the revenues required for service provision.

(4) Assessment of alternative methods; reasons why alternatives were rejected: There were no alternative methods.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Not possible due to subject matter.

CABINET FOR HUMAN RESOURCES

Department for Health Services (Proposed Amendment)

902 KAR 8:020. Policies and procedures for local health department operations.

RELATES TO: KRS Chapter 212

PURSUANT TO: KRS 194.050, 211.090, 211.170, 211.180, 213.410

NECESSITY AND FUNCTION: KRS 211.170 directs the Cabinet for Human Resources to establish policies governing the activities of local health departments. This regulation adopts various manuals setting policies and standards for health departments.

Section 1. Local Health Policy Manual. The policies set forth in the *September 15, 1984* [July 1, 1982], edition of the "Local Health Policy Manual" governing the maintenance and operation of local health departments are hereby adopted by reference.

Section 2. Financial Management Manual. The policies set forth in the *September 1, [May 15,] 1984*, edition of the "Financial Management Manual" governing the operation of the financial management systems used by local health departments are hereby adopted by reference.

Section 3. Patient Services Reporting System Manual. The policies set forth in the May 1, 1984, edition of the "Patient Services Reporting System Manual" governing the collection of patient health/medical services delivered by local health departments are hereby adopted by reference.

Section 4. Medical Records System Policy and Procedure Manual for Local Health Departments in Kentucky. The policies and procedures set forth in the May 1, 1984, edition of the "Medical Records System Policy and Procedure Manual for Local Health Departments in Kentucky" governing the development and maintenance of medical records in local health departments are hereby adopted by reference.

Section 5. Planning Manual for Local Health Departments. The policies set forth in the February, 1984, edition of the "Planning Manual for Local Health Departments" governing the annual program planning process and procedures of local health departments are hereby adopted by reference.

Section 6. Standards Manual for Local Health Departments. The policies set forth in the May 15, 1984, edition of the "Standards Manual for Local Health Departments" governing the programmatic operations of local health departments are hereby adopted by reference.

Section 7. Local Health Department Environmental Data System Operational Procedures for Weekly Environmental Activity Report, Sanitation Programs Information Formulator, and Local Health Annual Data Report. The policies set forth in the September, 1982, edition of the "Local Health Department Environmental Data System Operational Procedures for Weekly Environmental Activity Report, Sanitation Programs Information Formulator, and Local Health Annual Data Report" are hereby adopted by reference.

Section 8. On-Line Environmental Health Management Information System. The policies set forth in the February 14, 1984, edition of the "On-Line Environmental Health Management Information System" manual are hereby adopted by reference.

Section 9. Consumer Product Safety Commission's Hazardous Substances Labeling Guide. The policies set forth in the May 25, 1979, edition of the "Consumer Product Safety Commission's Hazardous Substances Labeling Guide" are hereby adopted by reference.

Section 10. Consumer Product Safety Commission's In-Depth Investigations Manual. The policies set forth in the January 28, 1983, edition of the "Consumer Product Safety Commission's In-Depth Investigations Manual" are hereby adopted by reference.

Section 11. MCH Maternity Manual. The policies set forth in the May 11, 1984, edition of the "MCH Maternity Manual" governing the operation of the prenatal program conducted by local health departments are hereby adopted by reference.

Section 12. Sudden Infant Death Syndrome Program. The policies set forth in the May 11, 1984, edition of the "Sudden Infant Death Syndrome Program" manual governing the operation of the Sudden Infant Death Syndrome Program conducted by local health departments are hereby adopted by reference.

Section 13. Standards for Genetic Disease Testing, Counseling and Education Services Program. The policies set forth in the May 11, 1984, edition of the "Standards for Genetic Disease Testing, Counseling and Education Services Program" manual governing the operation of genetic disease testing and counseling clinics conducted by local health departments are hereby adopted by reference.

Section 14. Standards for Regional Pediatric Clinics. The policies set forth in the May 11, 1984, edition of the "Standards for Regional Pediatric Clinics" manual governing the operation of regional pediatric programs conducted by local health departments are hereby adopted by reference.

Section 15. Standards for Preventive Health Care in

Children. The policies set forth in the May 11, 1984, edition of the "Standards for Preventive Health Care in Children" manual governing the operation of well child programs conducted by local health departments are hereby adopted by reference.

Section 16. Location of Manuals Referenced in This Regulation. A copy of each manual referenced in this regulation is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky, and is open to public inspection.

Section 17. Summary of Amendment. (1) In relation to Section 1 of this regulation relating to the Local Health Policy Manual, strike LHP-400-11a dated 5/6/83 of the Local Health Policy Manual and substitute in lieu thereof LHP-400-11a dated 9-15-84 which permits local health departments to assess minimum charges of three (3) dollars or less for health services at the full rate of charge.

(2) In relation to Section 1 of this regulation relating to the Local Health Policy Manual, strike LHP 500-8 dated 7-1-82 and substitute in lieu thereof new LHP 500-8 dated 9-15-84. This amendment authorizes local health department offices to be closed on presidential election day.

(3) Add new page 89A dated September 1, 1984 to the Financial Management Manual described in Section 2 of this regulation to authorize a special fee schedule in the Barren River District Health Department Home Health Program in order to comply with the requirements of special federal grant number 04-H-00-2818-01.

C. HERNANDEZ, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 13, 1984

FILED WITH LRC: September 14, 1984 at 9:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 22, 1984 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 17, 1984 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, KY. 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Phillip R. Spangler

(1) Type and number of entities affected: Local Health Departments-One

(a) Direct and indirect costs or savings to those affected: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: State-None; Local-Unknown

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Not appropriate.

CABINET FOR HUMAN RESOURCES

Department for Health Services
(Proposed Amendment)

902 KAR 8:030. Merit system for local health departments.

RELATES TO: KRS 211.170, 212.170(4), 212.870

PURSUANT TO: KRS 194.050, 211.090, 212.170(4)

NECESSITY AND FUNCTION: KRS 211.170, 212.170, and 212.870 require the Cabinet for Human Resources to supervise the personnel functions and prescribe merit system standards for local health departments. In addition, 5 CFR, Part 900, Intergovernmental Act Programs contains requirements for establishing and maintaining a system of personnel administration on a merit basis as a condition precedent to the receipt of federal funds for the conduct of certain federally funded health programs. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the merit system council for local health departments in accordance with applicable federal and state laws and regulations and KRS 212.170(4).

Section 1. Definitions. As used in this regulation: (1) "Council" means the merit system council for local health departments created by this regulation; and

(2) "Local health department" means a county, city-county, or district health department created pursuant to KRS Chapter 212 but does not include health departments located in cities of the first class or urban-county health departments.

Section 2. Council Membership, Terms, and Meetings.

(1) A merit system council is hereby created to serve local health departments. The council shall be composed of five (5) members who shall be appointed by the Secretary for Human Resources upon the recommendation of the Commissioner of the Department for Health Services. The members shall be public-spirited persons of recognized experience in the improvement of public administration, and in the impartial selection of efficient governmental personnel. No member of the council shall be an employee of a local health department or of the Department for Health Services.

(2) Members of the council shall serve for a term of three (3) years or until successors have been appointed, except that for members first appointed two (2) members shall be appointed for one (1) year, one (1) member for two (2) years, and two (2) members for three (3) years. A member appointed to fill a vacancy occurring prior to the expiration of the term shall be appointed for the remainder of such term.

(3) The council shall elect a chairman from its membership. Regular meetings of the council shall be held at least semi-annually. Special meetings of the council may be held upon call of the chairman or the Commissioner of the Department for Health Services.

(4) The council shall be attached to the Department for Health Services for administrative and budgetary purposes.

(5) A simple majority of the members of the council shall constitute a quorum for the purpose of conducting official business. The council shall adopt procedures for the conduct of its activities.

Section 3. Merit System Rules and Regulations. The Cabinet for Human Resources hereby adopts the publication entitled "Rules and Regulations for the Local Health Departments of Kentucky" as amended to September 15 [May 1], 1984, by reference, as the merit system requirements for local health departments in Kentucky governing all phases of personnel management, including but not limited to appointments, promotions, examinations, separations, and disciplinary actions.

Section 4. Summary of Amendment. In relation to Section 3 of this regulation strike the cover page of the Merit System Rules and Regulations for Local Health Departments of Kentucky dated May 1, 1984, and substitute in lieu thereof new cover page dated September 15, 1984. Strike page 9 undated and substitute in lieu thereof new page 9 dated 9-15-84 which permits county health departments, as well as district health departments, to use all available compensation plans.

C. HERNANDEZ, M.D., Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 13, 1984

FILED WITH LRC: September 14, 1984 at 9:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 22, 1984, at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 17, 1984, of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Phillip Spangler

(1) Type and number of entities affected: All local health departments (40 agencies) except Fayette and Jefferson.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not appropriate

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Not applicable.

CABINET FOR HUMAN RESOURCES Department for Health Services (Proposed Amendment)

902 KAR 12:080. Policies and procedures for mental health/mental retardation facilities.

RELATES TO: KRS Chapter 210

PURSUANT TO: KRS 210.010

NECESSITY AND FUNCTION: KRS 210.010 directs the Secretary of the Cabinet for Human Resources to prescribe regulations for the institutions under the control of the cabinet. The function of this regulation is to adopt policies and procedures for such institutions.

Section 1. Oakwood Policy Manual. The policies set forth in the September 1 [July 1], 1984, edition of the "Oakwood Policy Manual" consisting of three (3) volumes relating to the operation of Oakwood ICF-MR Facility are hereby adopted by reference.

Section 2. Hazelwood Policy Manual. The policies and procedures set forth in the September 1 [May 1], 1984, edition of the "Hazelwood Policy Manual" consisting of two (2) volumes relating to the operation of Hazelwood ICF-MR Facility are hereby adopted by reference.

Section 3. Central State Hospital ICF-MR Policy Manual. The policies and procedures set forth in the May 1, 1984, edition of the "Central State Hospital ICF-MR Policy Manual" consisting of two (2) volumes relating to the operation of Central State Hospital ICF-MR Facility are hereby adopted by reference.

Section 4. Eastern State Hospital Policy Manual. The policies and procedures set forth in the September 1 [July 1], 1984, edition of the "Eastern State Hospital Policy Manual" consisting of twenty-one (21) volumes relating to the operation of Eastern State Hospital Facility are hereby adopted by reference.

Section 5. Central State Hospital Policy Manual. The policies and procedures set forth in the September 1 [July 1], 1984, edition of the "Central State Hospital Policy Manual" consisting of nineteen (19) volumes relating to the operation of Central State Hospital Facility are hereby adopted by reference.

Section 6. Western State Hospital Policy Manual. The policies and procedures set forth in the September 1 [July 1], 1984, edition of the "Western State Hospital Policy Manual" consisting of thirty-one (31) volumes relating to the operation of Western State Hospital Facility are hereby adopted by reference.

Section 7. Glasgow ICF Policy Manual. The policies and procedures set forth in the May 1, 1984, edition of the

"Glasgow ICF Policy Manual" consisting of twelve (12) volumes relating to the operation of Glasgow ICF Facility are hereby adopted by reference.

Section 8. Western State Hospital ICF Policy Manual. The policies and procedures set forth in the May 1, 1984, edition of the "Western State Hospital ICF Policy Manual" consisting of nine (9) volumes relating to the operation of Western State Hospital ICF Facility are hereby adopted by reference.

Section 9. Volta Policy Manual. The policies and procedures set forth in the May 1, 1984, edition of the "Volta Policy Manual" consisting of one (1) volume relating to the operation of Volta Facility are hereby adopted by reference.

Section 10. Kentucky Correctional Psychiatric Center Policy Manual. The policies and procedures set forth in the September 1 [July 1], 1984, edition of the "Kentucky Correctional Psychiatric Center Policy Manual" consisting of thirteen (13) volumes relating to the operation of Kentucky Correctional Psychiatric Center Facility are hereby adopted by reference.

Section 11. Location of Manuals Referenced in This Regulation. A copy of each manual referenced in this regulation is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky, and is open to public inspection.

Section 12. Summary of Amendment. Section 2 is revised as follows:

HAZEL WOOD POLICIES—B1

- | | | |
|--------|------|--|
| 87-1-2 | #2D | deleted statement relating to apparent physical and/or emotional injury, additional member added to fact finding committee |
| 87-2-1 | #1D | the organization has changed to list new Facility Director |
| 87-3-1 | #1A | more clearly defines who is responsible in absence of facility director |
| 87-3-1 | #3B | more clearly defines role of human rights committee |
| 87-3-3 | #9B | update of fire alarm procedure |
| 87-4-5 | #17B | copy of nutritional assessment is required by Licensure be attached to annual IDT meeting report |
| 87-5-4 | #8A | some drugs were no longer used and others were added |
| 87-5-7 | #3D | new forms were required as a result of redoing floor charts |

Section 4 is revised as follows:

D—Eastern State Hospital

- D-1 "Abuse of Patients by Hospital Employee" policy is adopted to include the phrase "or intimidating a patient or encouraging a patient to do harm to self or others," under the definition of Verbal Abuse. Additionally, "Neglect" has been removed from this policy as an example of patient abuse.

- D-1 "Neglect to Preserve Patient's Health, Safety and Welfare" more clearly explains the forms neglect may take.
- D-1 "Employee Recognition Program" is adopted to allow for recognition of all full time staff; to allow for re-nomination of previous winners; and to increase the committee membership.
- D-1 "Posting of Vacant Positions"—locations of posting are changed.
- D-2 "Posting of Vacant Positions"—locations of posting are changed.

Section 5 is revised as follows:

5(E)—Central State Hospital

- (1) E1 Sec. HH #4.40 This policy is adopted to utilize a discharge checklist (form attached to policy)
- (2) E1 Sec. HH A new policy for a new training program on medications
- (3) E1 Sec. R #13 A new procedure for requesting canteen books for indigent patients
- (4) E1 Sec. CC #2 This is a new policy reflecting Central State Hospital requirements for CPR training
- (5) E1 Sec. A #1 This is a revision to reflect the present Board of Governors
- (6) E1 Sec. D #1 The Clinical Staff Bylaws have been revised to reflect changes in Article VIII and Article IX concerning committees
- (7) E1 Section: X "Personnel"

No: 3, 7, 9, 10, 12, 14, 15, 16

These policies have been adopted to reflect recent changes in personnel.

Section 6 is revised as follows:

F—Volume 29—Western State Hospital

The following are adopted:

- the job specifications of the Director of Recreation Therapy, and of the Institutional Recreational Leader.
- policies #1, #3, #4, and #9
- P16—policy on protecting patients' health during activities in hot weather.
- description of the interaction between Recreation Therapy Service and Acute Psychiatric Service, Psychiatric Rehabilitation Service, Learning and Rehabilitation Service, Extended Care Service, Community Resources.

F-16—Western State Hospital

A New Disaster Manual is adopted because of new equipment in the hospital, departmental policy changes, new assignments of staff, ward changes, and other minor changes in the hospital.

F-28—Western State Hospital

A new Safety Manual is adopted because of new equipment the hospital, departmental policy changes, new assignment of staff, ward changes, and other minor hospital changes.

F-26—Western State Hospital

A new organizational chart is adopted to reflect changes in Hospital personnel.

- Section II, #25—An updated list of drugs available in the Western State Hospital Pharmacy is adopted.
- Section X—delete all information pertaining to Comprehensive Care Center Replacement Program except Policy I. Insert new information on drug replacement.
- Section V—Adopt an updated list of authorized prescribers for Western State Hospital Pharmacy.

F-32—Western State Hospital

A new policy is adopted for a new program of employee health care adopted at Western State Hospital, involving health assessment, PPD Skin Test, Flu vaccine, and Hepatitis B Immunizations.

F-5—Western State Hospital

#II—revised policy adopted to involved nursing service in informing patients of their rights

#VI—revised policy adopted on responsibilities of patient advocate to involve nursing service

Section 9 is revised as follows:

Facility Code—Volta I

Volume—#1

Section—Program Operation

Page Title—Volta Program

The third paragraph was rewritten to include "small group" which had been inadvertently omitted.

Section 10 is revised as follows:

J5—Kentucky Correctional Psychiatric Center

A new version of the Security Department Policies and Procedures is submitted to align policies with Joint Commission on Hospital Accreditation standards, to accommodate new personnel, a new laundry room, a new cleaning staff, to help prevent medication errors, and new security measures relating to medicine, incoming mail, the bullpen doors, shakedown. etc.

J5—Kentucky Correctional Psychiatric Center

J5/A-1 Section F added to explain why attendance in inclement weather is necessary

J5/A-8 Section G clarifies where double space parking is permitted.

J5/A-9 Section E wording change

J5/A-10 Section D—"quarterly review" is changed to "biennial review"

J5/A-11 Section D—added statement specifying how employee can see personnel files

J5/A-12 section added to show quantity of clothing provided to officers

J5/A-13 employees may not leave keys in vehicles

J5/A-14 restrictions placed on incoming calls for patients

J5/A-17 changes responsibility from Command Post to Shift Supervisor

J5/A-18 clarifies that these duties only apply in absence of supervisor
only work related material may be read in command post insures confidentiality of materials

J5/A-19 revises whole policy for specific details in relation to contraband

J5/A-20 changes from two (2) officers to one (1) for outside recreation

J5/A-21 changes to allow new duties
all officers have cuff keys

J5/A-22 new policy—more detailed instructions on duties of Desk Officer

J5/A-23 omit "key" from policy

J5/A-24 change wording on calling in assistance—in-sure balance of employee coverage on all days requires documentation of incidents

J5/A-25 change to provide keys to recreation leader
allow more organized assembly of patients

J5/A-26 changes time for assembly of patients

J5/A-27 one (1) officer to legal library with patients
patient assembly in five (5) minutes instead of fifteen (15) minutes

J5/A-29 revise to provide precise details for admissions officer

J5/A-31 patients locked in room for patient count

J5/A-32 Kentucky Correctional Psychiatric Center has authority to lock evidence in file

J5/A-33 fire and safety coordinator has to make report

J5/A-36 revised to clarify directions
specify time and date

J5/A-37 lock patients in living units during limited visibility

J5/A-39 engineering department is called during power loss

J5/A-40 control personnel go to Unit C in severe weather

J5/A-41 all officers have keys according to new policy

J5/A-44 This policy was written to clarify the procedure for changing shifts or days off, since many requests for change of shifts are received

J5/B-3 officers responsible for documentation

J5/B-8 *refers to policy on contraband
clarifies reason for search and shakedown*

J5/B-9
to

J5/B-24 *revisions deal with patient rights, patient
treatment, patient mail, etc.*

DENNIS D. BOYD, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 13, 1984

FILED WITH LRC: September 14, 1984 at 9:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on October 22, 1984 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However this hearing will be cancelled unless interested persons notify the following office in writing by October 17, 1984, of their desire to appear and testify at the hearing: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

9802 KAR 12:080-5

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Verna Fairchild, R.N., Director,
Division of Institutional Care

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Present procedure not previously adopted by regulation

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? Yes.

CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development (Proposed Amendment)

904 KAR 1:020. Payment for drugs.

RELATES TO: KRS 205.550, 205.560

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer a program of Medical Assistance under Title XIX of the Social Security Act. KRS 205.550 and 205.560 require that the secretary prescribe the methods for determining costs for vendor payments for medical services. This regulation sets forth the method for determining amounts payable by the department for drugs.

Section 1. Maximum Allowable Cost Reimbursement Limits. (1) Reimbursement to pharmacists participating in the Medical Assistance Program for those drugs contained on the Kentucky Medical Assistance Program Outpatient Drug List and provided to eligible recipients is limited to the lowest of:

(a) The maximum allowable cost (MAC) of the drug, if any, plus a dispensing fee; or

(b) The estimated acquisition cost (EAC) of the drug plus a dispensing fee; or

(c) The provider's usual and customary charge to the public for a like product and service.

(2) Reimbursement to skilled nursing and intermediate care facilities for drugs provided to eligible recipients is allowable in accordance with the following:

(a) The Kentucky Medical Assistance Program Outpatient Drug List (with additions and deletions thereto) shall be provided by the program to each participating facility, and for the drugs contained therein, the limits specified in subsection (1) of this section are applicable;

(b) For drugs not on the drug list, the maximum reimbursement shall be the lower of: for any drugs with a MAC set by the federal government, the MAC cost; and for all other drugs the published price of the drug as shown in the latest issue of the Drug Topics Red Book, including supplements, or the price shown in the appropriate Prescription Pricing Guide, depending on which is the latest available, plus a dispensing fee; or the provider's usual and customary charge to the public for a like product and service. SNF/ICF facilities shall not impose an additional charge on medicaid eligible recipients for drugs because of the limitations set forth in Section 1(2) of this regulation;

(c) A packaging cost allowance of not more than six (6) cents per dose may be added to the drug cost (if not already included) for unit dose packaged drugs. The packaging cost (up to six (6) cents, plus the drug cost is added to the dispensing fee to determine the total reimbursement amount for a unit dose packaged prescription;

(d) There shall be no more than two (2) dispensing fees allowed per drug within a thirty (30) day period, except for Schedules II, III, and IV controlled substances and for non-solid dosage forms, including topical medication preparations, for which no more than four (4) dispensing fees per drug will be paid within a thirty (30) day period. Though dispensing fees are limited, this shall not be construed as placing a limit on the quantity of reimbursable drugs for which the program will pay for any patient, since the reasonable cost of the drug (as defined herein) is reimbursable as a covered service in whatever quantity is considered medically necessary for the patient. Non-solid dosage forms include all covered drug items other than oral

tablets or capsule forms. Drug items or other related supplies purchased for routine use and which may be purchased without a prescription, including food supplements, are not reimbursable in SNFs or ICFs under the drug program, though the cost of such drug, supply item or food supplement, is an allowable cost for the facility with the cost computed in accordance with the state regulation covering medicaid reimbursement for the facility;

(e) Whenever possible, unused drugs paid for by the department shall be returned to the pharmacy with the credit for the cost of the drug and the unit dose packaging cost (if applicable) accruing to the department as an offset against allowable ancillary cost; and

(f) Interim payments made to participating facilities for allowable drug costs shall be settled at actual allowable costs computed in accordance with the upper limits shown herein at the end of the facilities' fiscal year.

(3) Reimbursement to hospitals for drugs provided to eligible recipients is on the basis of reasonable cost pursuant to 904 KAR 1:013.

Section 2. Physician Maximum Allowable Cost (MAC) Override. The MAC price limitation in Section 1 of this regulation shall not apply in any case where a physician certifies in his own handwriting that in his medical judgment, a specific covered brand is medically necessary for a particular patient. In such instances, reimbursement shall be based on the lower of the EAC plus a professional dispensing fee or the provider's usual and customary charge to the public for the drug.

Section 3. Dispensing Fees. *Effective July 1, 1984*, the dispensing fee shall be no more than *three (3) dollars and twenty-five (25) cents* [two (2) dollars and thirty-five (35) cents] per prescription for drugs reimbursed through the outpatient drug program, as shown in Section 1(1) of this regulation, where the covered drugs are limited to those contained on the Kentucky Medical Assistance Program Outpatient Drug List. The allowable dispensing fee shall be no more than *three (3) dollars and twenty-five (25) cents* [two (2) dollars and thirty-five (35) cents] (except for the additional amount for unit dose packaging as shown in Section 1(2)(c) of this regulation) for drugs reimbursed as part of the covered services of skilled nursing and intermediate care facilities, as shown in Section 1(2) of this regulation.

Section 4. Reimbursement to Dispensing Physicians. Participating dispensing physicians who practice in counties where no pharmacies are located are reimbursed for the cost of the drug only, with the cost computed as the maximum allowable cost or estimated acquisition cost as shown in Section 1(1) of this regulation, or the physician's usual and customary charge to the general public for the drug if less.

JACK F. WADDELL, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 7, 1984

FILED WITH LRC: September 7, 1984 at 3:30 p.m.

A PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 22, 1984 at 9 a.m. in the Department of Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 17, 1984 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: Approximately 1,600 pharmacies

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$3.0 million (costs)

2. Continuing costs or savings: \$3.0 million (costs).

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. Not applicable to Medicaid regulations

CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development (Proposed Amendment)

904 KAR 1:039. Payments for hearing services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS [13.082,] 194.050

NECESSITY AND FUNCTION: The Cabinet [Department] for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet [department], by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet [department] for hearing services.

Section 1. Audiologist. (1) The cabinet [department] shall reimburse participating audiologists on the basis of a flat fee schedule.

(2) The flat fee schedule for covered services is:

(a) Complete hearing evaluation, fifteen dollars (\$15).

(b) Complete hearing evaluation and hearing aid evaluation, twenty-five dollars (\$25).

(c) Follow-up visit (following hearing aid fitting), ten dollars (\$10).

(d) Six (6) month follow-up visit, five dollars (\$5).

Section 2. Hearing Aid Dealers. (1) If the manufacturer of the hearing aid billed to the program has submitted a

dealer price schedule which includes that hearing aid, the *cabinet* [department] shall reimburse the participating hearing aid dealer at that dealer price in the price schedule plus a professional fee of *seventy-five (75)* [fifty] dollars [(\$50)], or at the actual dealer cost plus a professional fee of *seventy-five (75)* [fifty] dollars [(\$50)] or at the suggested retail price submitted by the manufacturer for that aid, whichever is less.

(2) If the manufacturer of the hearing aid billed to the program has not submitted a dealer price schedule which includes that hearing aid, the *cabinet* [department] shall reimburse the participating hearing aid dealer at the lowest dealer price submitted for a comparable hearing aid plus a professional fee of *seventy-five (75)* [fifty] dollars [(\$50)] or at the actual dealer cost plus a professional fee of *seventy-five (75)* [fifty] dollars [(\$50)], or at the lowest suggested retail price submitted for a comparable aid, whichever is the lesser amount. Comparable aids are defined as aids falling within the general classifications of fitting type, i.e. body, behind-the-ear, in-the-ear, eyeglasses.

Section 3. Cords: The *cabinet* [department] shall make payment for replacement cords at the dealer's cost, plus a professional fee of one dollar and fifty cents (\$1.50).

Section 4. Hearing Aid Repairs: The *cabinet* [department] shall reimburse hearing aid dealers for hearing aid repairs on the basis of the manufacturer's charge for repair and/or replacement of parts, plus the dealer's cost for postage and insurance relative to the repair, plus a professional fee of *fifteen (15)* dollars [one dollar and fifty cents (\$1.50)].

Section 5. Implementation. The rates specified herein shall be effective for services provided on or after November 1, 1984.

JACK F. WADDELL, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 10, 1984

FILED WITH LRC: September 14, 1984 at 9:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 22, 1984 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 17, 1984 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: Approximately 8 hearing aid dealers; this number could increase to 33.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$5,000 (costs)

2. Continuing costs or savings: \$5,000 (costs)

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Not applicable to Medicaid regulations.

CABINET FOR HUMAN RESOURCES Department for Employment Services Division of Unemployment Insurance (Proposed Amendment)

904 KAR 5:030. Employer contributions.

RELATES TO: KRS 341.260

PURSUANT TO: KRS 13A.100 [13.082], 194.050, 341.115

NECESSITY AND FUNCTION: This regulation sets the due date upon which employer contributions are payable to the division.

Section 1. *Contributions* [Except as provided by Section 7 of this regulation, contributions] shall become due on or before the last day of the month following the close of the calendar quarter for which they are payable.

Section 2. The first contribution payment of any employing unit which becomes a subject employer at any time during a calendar quarter, shall become due on or before the last day of the month following the close of the quarter in which such employing unit became a subject employer, and shall include contributions which have accrued for the entire period beginning January 1 of the calendar year and including the calendar quarter in which the employing unit became a subject employer.

[Section 3. Contributions required under KRS 341.290 shall become payable on the basis of calendar years. Such contributions shall become due on February 28, of the year following the year for which they are payable.]

Section 3. [4.] Notwithstanding the provisions of Sections 1 and 2 [, 3 and 7] of this regulation, in the event a subject employer has erroneously paid to another state or to a federal agency contributions due under KRS Chapter 341, the due date of such contributions shall be extended by the number of calendar days between the date such contributions were erroneously paid to such other agency and the date the secretary determines such contributions were payable under KRS Chapter 341; provided, however, if such contributions have been refunded by such other agency to such subject employer prior to the date of the secretary's determination, the due date shall be extended only for the number of calendar days between the date of such erroneous payment and the date of such refund.

Section 4. [5.] *Contributions* [Except as provided by Section 7 of this regulation, contributions] shall not be considered paid until the required contribution and wage

reports have been received by the Division of [for] Unemployment Insurance or which have been deposited in the mail on or before the due date as indicated by the postmark thereon.

Section 5. [6.] For the purpose of this regulation, when the due date falls on a day during which the office of the division is closed, the next day thereafter on which such office is open shall be considered the due date and contributions and reports which have been deposited in the mail on or before the due date, as indicated by the postmark thereon, shall be considered as timely filed.

[Section 7. Contributions and reports for the first quarter of 1982 shall become due as follows:]

[(1) Contributions in the amount which would have been due under former law before House Bill 746 of the 1982 General Assembly became effective shall become due on or before May 17, 1982.]

[(2) Contributions in the amount of the increase provided by House Bill 746 of the 1982 General Assembly shall become due on or before July 16, 1982.]

[(3) All contribution and wage reports shall become due on or before May 17, 1982, covering contributions mentioned in subsections (1) and (2) of this section.]

JAMES P. DANIELS, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 13, 1984

FILED WITH LRC: September 14, 1984 at 9:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 22, 1984 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 17, 1984 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Commissioner James P. Daniels

(1) Type and number of entities affected: None

(a) Direct and indirect costs or savings to those affected: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the pro-

posed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: The amendment merely deletes an obsolete section; hence no impact involved.

Tiering:

Was tiering applied? No. No impact involved.

CABINET FOR HUMAN RESOURCES Department for Employment Services Division of Unemployment Insurance (Proposed Amendment)

904 KAR 5:260. Unemployment insurance procedures.

RELATES TO: KRS 341.005 through 341.990

PURSUANT TO: KRS 13A.100, 194.050(1), 341.115

NECESSITY AND FUNCTION: Title III of the Social Security Act authorizes the states to implement an unemployment insurance program. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the procedures required to administer the unemployment insurance program in accordance with applicable state and federal laws and regulations.

Section 1. In order to facilitate the administration of the unemployment insurance program as authorized by Title III of the Social Security Act and KRS Chapter 341, the following operating manuals are adopted by reference:

(1) Unemployment Insurance Local Office Manual as issued February 1984 and last revised August 13 [July 13], 1984. This manual includes procedures: for requiring proper identification of persons filing claims for benefits; for taking and processing initial, additional, reactivated and continued claims for benefits; for assigning claimants to the appropriate group for the eligibility review program; for conducting benefit rights interviews; for processing payorder cards for payment; for correcting and changing benefit data; for registering claimants for work; for conducting the eligibility review program; for stopping and releasing payment of benefits; for entering claim history and benefit payment information into the data base; for taking and processing interstate claims, combined wage claims, claims by former federal employees and ex-service members, and claims for extended benefits and federal supplemental compensation benefits; for conducting investigations and issuing determinations regarding a claimant's separation, ability to work, availability for work, active search for work, benefit entitlement, and deductions from benefits; for processing employers' protests to claims; for taking requests for reconsideration of monetary eligibility; for establishing benefit overpayments and initiating recovery or recoupment by processing partial payment agreements or issuing liens; for initiating action on lost or returned checks; for detecting and initiating recovery of fraudulent overpayments; for filing appeals to eligibility determinations; for reporting workload time spent; for compiling claims and nonmonetary determination statistics; and for ranking of local offices based on performance criteria.

(2) Unemployment Insurance Benefit Branch Procedures Manual issued May, 1982 and last revised

September 5 [August 3], 1984. This manual includes procedures for administering the payment of unemployment insurance benefits; for maintaining accounts for all benefit income and expenditures; for detecting, establishing and initiating recovery of benefit overpayments; for assigning benefit charges to employer accounts; for conducting a quality review of nonmonetary determinations affecting the payment of benefits; for processing unemployment claims for former federal employees, ex-service-members, combined wage claimants, interstate claims, claims for Disaster Unemployment Assistance, claims under the Trade Readjustment Act and claims under the Work Incentive Program; for reconsidering monetary rate determinations; for processing payment for lost or returned benefit checks; and for investigating potential fraud and recommendation of recovery action or criminal prosecution.

(3) Unemployment Insurance Tax Collection and Accounting Branch Manual issued November, 1982 and last revised August 1, 1984. This manual includes procedures: for setting up, transferring and cancelling employer contribution and reimbursement accounts; for collecting quarterly taxes from contributory employers and for billing reimbursing employers for benefits paid; for auditing quarterly wage and tax reports by making adjustments, assessing additional payment and penalties and crediting tax overpayments; for maintaining records of employer accounts and tax payments; for adjusting wages if required when a reconsideration of monetary benefit eligibility is filed; and for collecting delinquent taxes by filing tax liens, recommending suits and temporary restraining orders, garnishing wages, filing claims in bankruptcy or against monies due to delinquent employers from state agencies.

(4) Unemployment Insurance Administrative Support Branch Manual issued December, 1983 and last revised March 1984. This manual includes procedures: for maintaining files of benefit claims, employer records, appeals, and unemployment insurance commission orders; for maintaining mail security operations for all checks received by the division; for gathering statistics and conducting statistical studies; for verifying workload items for the budget process; for publishing statistical reports for the division and for general publication; for maintaining and distributing federal and state-released procedures; for maintaining all procedures manuals; for conducting the unemployment insurance quality appraisal; for training division personnel; for retaining and disposing of records; for providing data processing liaison services; for preparing state and federal budgets; for operating the Cost Model Management System; for maintaining the Cost Information System; for controlling forms control; and for monitoring purchases, expenditures and repairs.

(5) Unemployment Insurance Field Audit Manual issued February 1984 and last revised May 1984. This manual includes procedures for handling matters which cannot be handled directly or expediently by the central office tax branch, such as procedures: for locating employers; for conducting investigations of employers, and their payrolls and employment records; for determining an employer's status under the law; for assessing contributions and collecting delinquent contributions; for serving legal papers; for conducting property investigations; for auditing employer records; and for furnishing technical assistance to employers.

(6) Unemployment Insurance Director's Office Manual issued November 18, 1983. This manual includes procedures for operating the Fraud Investigations and Internal

Security Unit such as procedures for: administering the unit; detecting fraud; prosecuting fraud cases; closing out fraud cases; preventing fraud; maintaining internal security; and conducting other investigations.

Section 2. Summary of Amendment. (1) Unemployment Insurance Local Office Manual.

(a) Chapter 11000, Unemployment Compensation for Federal Employees, Section 11178, strike pages 17 and 18, dated 3-7-84 and substitute in lieu thereof pages 17 and 18, dated 8-13-84, which update payroll rate schedules (G.S. Grades) for federal employees which were made retroactive to January 1, 1984. [Chapter 2000, Initial Claims, Sections 2010, 2020, 2060, 2170 and 2240, strike pages 3 and 4, dated 5-18-84; 5 and 6, dated 6-21-84; 7 and 8, dated 6-4-84; 11 through 14, dated 8-16-83; 19 and 20, dated 9-26-83; 29 and 30, dated 2-6-84; and 31 and 32, dated 11-3-83 and substitute in lieu thereof pages 3 through 8, 11 through 14, 19 and 20, and 20 through 32, all dated 7-13-84, which update procedures for: determining how the initial claim is to be prepared based on the length of the claimant's last employment; completing the initial claim for benefits, Form UI-401; informing the claimant during the benefit rights interview that a random investigation of work search contacts will be performed; changing the chargeable employer on an additional claim, when necessary.]

(b) Chapter 13000, Statistical Reports, Sections 13200, 13215 and 13220, strike pages 7 through 14, dated 2-10-84 and substitute in lieu thereof pages 7 through 14, dated 8-13-84 which update procedures for completion of form UI-301, Weekly Report of Claims Activities. [Chapter 3000, Continued Claims, Sections 3110 and 3160, strike pages 17 and 18, dated 2-6-84 and 23 and 24, dated 8-23-83 and substitute in lieu thereof pages 17, 18, 23 and 24, all dated 7-13-84, which update procedures regarding a random investigation of work search contacts and the eligibility review program.]

[(c) Chapter 6000, Examining, Sections 6015 and 6017, strike pages 8 and 9, dated 7-1-82 and substitute in lieu thereof pages 8, 9 and 9A, dated 7-13-84, which include provisions under which a claimant who is a non-professional employee of an institution of higher education will be disqualified during periods when school is not in session, and conditions under which a claimant will not be disqualified for voluntarily leaving his next most recent employment.]

(2) Unemployment Insurance Benefit Branch Procedures Manual, Chapter 2000, State and Federal Claims, Section 036, strike pages 17 and 18, dated 2-8-83 and substitute in lieu thereof pages 17 and 18, dated 9-5-84 which update payroll rate schedules (G.S. Grades) for federal employees which were made retroactive to January 1, 1984. [5000, Federal Payment Section, strike pages 1 through 14, dated 5-20-82 and substitute in lieu thereof pages 1 through 13, dated 8-3-84 to clarify procedures for taking, processing and paying claims for Disaster Unemployment Assistance.]

(3) Unemployment Insurance Tax Collections and Accounting Branch Manual, Chapter 100, Status, strike the contents page and pages 1 through 65, dated 11-30-82 and substitute in lieu thereof the contents pages 1 through 5 and pages 1 through 104, all dated 8-1-84, to include stylistic revisions in procedures relating to the operations of the Status and Compliance Unit.

Section 3. All documents incorporated by reference herein are on file for public inspection in the Office of the

Commissioner for Employment Services, 275 East Main Street, Frankfort, Kentucky 40621 and in local unemployment insurance offices located throughout the state.

JAMES P. DANIELS, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 13, 1984

FILED WITH LRC: September 14, 1984 at 9:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 22, 1984 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 17, 1984 of their desire to appear and testify at the hearing: Hughes Walker, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Commissioner James P. Daniels

(1) Type and number of entities affected: Unemployment insurance benefit claimants; thousands per year

(a) Direct and indirect costs or savings to those affected: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: The amendment does not change any process or procedure, hence no impact involved.

Tiering:

Was tiering applied? No. Procedures already in effect; all claimants are treated equally under the law.

CABINET FOR HUMAN RESOURCES
Department for Employment Services
Division of Program Administration
and Technical Services
(Proposed Amendment)

904 KAR 6:020. Weatherization assistance for low income persons.

RELATES TO: KRS 194.030(9)

PURSUANT TO: KRS 13A.100, 194.050(1)

NECESSITY AND FUNCTION: Chapter 42 USC 6861

authorizes the states to implement a weatherization program. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the weatherization program in accordance with applicable federal laws and regulations.

Section 1. In order to facilitate the administration of the weatherization program as authorized by 42 USC 6861 and as regulated in Title 10 CFR Part 440, the following CFR and operating manuals are adopted by reference:

(1) Title 10 Code of Federal Regulations (CFR), Part 440, as issued January 27, 1984, which authorizes states to carry out a program of weatherization assistance for low-income persons established by Chapter 42 United States Code (U.S.C.), 6861.

(2) 1983 Weatherization Manual issued September, 1983 and last revised May 11, 1984, which is provided to subgrantees administering the weatherization program throughout the state and includes an introduction and purpose of the Weatherization Manual, a list of subgrantees and areas served, a copy of 903 KAR 2:010 and implementation procedures for: subgrantee application and contracting; subgrantee contract modification; subgrantee private sector subcontracting; subgrantee financial management; subgrantee program operation; program monitoring and training and technical assistance; and completion and distribution of administrative reports and forms.

(3) Weatherization Assistance Program Specifications and Installations Standards Manual issued October, 1983 and last revised May 25, 1984, which is provided to subgrantees administering the weatherization program throughout the state to establish a common set of general requirements, material standards and installation standards and includes procedures for all measures used in weatherizing a dwelling, such as reducing air infiltration, attic, floor, wall, water heater and pipe and duct insulation, heating system tune-up and installation of storm windows.

Section 2. Summary of Amendment. 1983 Weatherization Manual, Chapter X, strike pages X-6 and X-7, undated, and facsimile of form WX-3, Weatherization Survey Sheet, dated 9-82 and substitute in lieu thereof pages X-6 through X-7f, dated 8-84, facsimile of form WX-3, Weatherization Survey Sheet dated 7-84, and facsimiles of WX-3 continuation sheets, pages 2 and 3, dated 8-84, which update procedures for completing form WX-3, Weatherization Survey Sheet.

Section 3. [2.] All documents incorporated by reference herein are on file for public inspection in the Office of the Commissioner for Employment Services, 275 East Main Street, Frankfort, Kentucky 40621, and in local Community Action Agency offices located throughout the state.

JAMES P. DANIELS, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 13, 1984

FILED WITH LRC: September 14, 1984 at 9:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 22, 1984 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by October 17, 1984: Hughes Walker,

General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Commissioner James P. Daniels

(1) Type and number of entities affected: Non-profit local administrative agencies; 22 community action agencies; one senior citizens center; one local government.

(a) Direct and indirect costs or savings to those affected: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments:

Tiering:

Was tiering applied? No.

If no, please explain why tiering was not applied: This program has been in existence since 1977.

CABINET FOR HUMAN RESOURCES Department for Employment Services Division of Veteran's Employment Services (Proposed Amendment)

904 KAR 6:050. Veterans' benefits.

RELATES TO: KRS 194.030(9)

PURSUANT TO: KRS 13A.100, 194.050(1)

NECESSITY AND FUNCTION: Title 38, USC authorizes the states to implement veterans' employment and training programs. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the veterans' training and benefit programs in accordance with applicable federal laws and regulations.

Section 1. In order to facilitate the administration of the veterans' programs as authorized by Title 38, USC, and as regulated in 20 CFR Parts 652 and 653, the following

CFRs, federal statutes and bulletins are adopted by reference:

(1) Title 20, Code of Federal Regulations (CFR) Parts 652 and 653, dated March 30, 1984, which includes implementation procedures for providing veterans and eligible persons the maximum employment and training opportunities with priority given to the needs of disabled veterans and veterans of the Vietnam-era..

(2) Title 38, United States Code (USC), Chapter 41, as amended through January 14, 1983, which mandates the establishment of a job and job training counseling service program, an employment placement service program and a job training placement service program for eligible veterans and other eligible persons and the provision of maximum employment and training opportunities to veterans, with priority given to the needs of disabled veterans and veterans of the Vietnam-era through existing programs, coordination and merger of programs and implementation of new programs.

(3) Veterans Employment Representative (V.E.R.) Bulletins A through 17 which contain implementation procedures for employment services provided to veterans in fulfillment of responsibilities mandated by law.

(4) Federal Contractor Job Listing (F.C.J.L.) Bulletins 1 through 4, which contain updated instructions and procedures for processing Federal Contractor Job Listing under the mandate of Public Law 93-50 requiring federal contractors and subcontractors to list suitable job openings with the appropriate local office of the Department for Employment Services.

(5) Public Law 96-466, The Veterans Rehabilitation and Education Amendments of 1980, which revised the disabled veterans vocational rehabilitation program and established the Disabled Veterans Outreach Program.

(6) Public Law 98-77, the Emergency Veterans' Job Training Act of 1983, which addresses problems of service and continuing unemployment among veterans by providing payments to defray the costs of training and incentives to employers to hire and train certain wartime veterans who have been unemployed for long periods of time for stable and permanent positions that require significant training.

(7) Public Law 97-300, the Job Training Partnership Act, which establishes programs to prepare youth and unskilled adults for entry into the labor force and to afford job training to those economically-disadvantaged individuals and other individuals facing serious barriers to employment who are in special need of such training to obtain productive employment, Title II, Part C of the Act specifically authorizes programs for veterans recently separated from military service, Vietnam-era veterans and disabled veterans.

(8) Title 41, Code of Federal Regulations (CFR), Parts 60-250, dated June 25, 1976, which mandates and provides procedures for ensuring compliance with Section 402 of the Vietnam-era Veterans Readjustment Act of 1974, which requires government contractors and subcontractors to take affirmative action to employ and advance the employment of qualified disabled veterans and veterans of the Vietnam-era.

Section 2. Summary of Amendment. Title 20, Code of Federal Regulations, Part 653, Subpart C, strike Table of Contents page 5b, dated 11-11-83, Table of Contents page 6, dated 11-30-83, page 7, dated 1-16-81, pages 8, 40, 41, 42, 43, 44, 45, and 46, all dated 1-30-83, pages 50 and 51, dated 8-12-81, pages 62 and 63, dated 1-16-81, and pages 64 through 76, dated 1-16-81 and 11-30-83 and substitute in

lieu thereof Title 20, Code of Federal Regulations, Part 652, Supart B, Table of Contents page 5b, dated 11-11-83, Table of Contents page 6, dated 5-15-84, and pages 7 and 8, and 40 through 50, all dated 5-15-84, page 51, dated 8-12-81, page 62, dated 1-16-81 and page 63, dated 5-15-84, which update policies relating to the priority given to disabled veterans and veterans of the Vietnam-era in services provided through the public employment system and describes the roles and responsibilities of the Assistant Secretary and staff for Veterans' Employment and Training.

Section 3. [2.] All documents incorporated by reference herein are on file for public inspection in the Office of the Commissioner for Employment Services, 275 East Main Street, Frankfort, Kentucky 40621, and in local employment services offices located throughout the state.

JAMES P. DANIELS, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 13, 1984

FILED WITH LRC: September 14, 1984 at 9:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 22, 1984, at 9 a.m., in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by October 17, 1984: Hughes Walker, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, KY 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Commissioner James P. Daniels

(1) Type and number of entities affected: Veterans of armed forces; thousands per year

(a) Direct and indirect costs or savings to those affected: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments:

Tiering:

Was tiering applied? No

If no, please explain why tiering was not applied: 1) No impact involved

2) Procedures already in effect

Proposed Regulations

PUBLIC PROTECTION AND REGULATION CABINET Crime Victims Compensation Board

107 KAR 1:040. Cooperation with the Kentucky Medical Assistance Act.

RELATES TO: KRS 346.130(3), 346.140(1)(b), (c); 205.510 through 205.630

PURSUANT TO: KRS 346.040

NECESSITY AND FUNCTION: KRS 346.130(3) authorizes the Crime Victims Compensation Board to make awards to crime victims for medical or other services necessary as a result of the injury on which the claim is based. KRS 346.140(1) requires that any award made shall be reduced by certain amounts, including (b) any payments received or to be received by the claimant as a result of the injury under insurance programs mandated by law and (c) from public funds. The purpose of KRS 205.510 through 205.630 (known as the "Medical Assistance Act") is to provide medical care to Kentucky's indigent citizenry as an essential function, duty or responsibility of the state government. This regulation sets out the manner in which the Kentucky Medical Assistance Plan in the Cabinet for Human Resources and the Crime Victims Compensation Board will cooperate so as to avoid any possible overlap or duplication in payments to crime victims who are Medicaid-eligible.

Section 1. The following provisions will govern the manner in which the Kentucky Medical Assistance Plan in the Cabinet for Human Resources and the Crime Victims Compensation Board will work together so as to avoid any possible overlap or duplication in payments to crime victims who are Medicaid-eligibles.

(1) A copy of every claim form filed with the board shall be sent to the Kentucky Medical Assistance Program (KMAP), Cabinet for Human Resources;

(2) The KMAP will determine which crime victims are covered under that program and so advise the board;

(3) For victims who are covered by Medical Assistance, the board will provide the KMAP staff with a list of all itemized medical charges for which the victim seeks compensation;

(4) The KMAP will notify the board which services are covered;

(5) The board, or any board member, in making an award to a Medicaid-eligible victim will exclude from consideration for such award any medical bill submitted by or on behalf of a Medicaid-eligible crime victim for any procedure covered under the KMAP; and

(6) In the event the board should make an award to a victim who is an eligible Medical Assistance recipient for a KMAP-covered service, the KMAP, as final payor, will

not be responsible for the payment of any portion of that claim.

ANNE PERKINS McBEE, Chair
MELVIN H. WILSON, Secretary

APPROVED BY AGENCY: September 4, 1984

FILED WITH LRC: September 6, 1984 at 1 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 22, 1984 at 10 a.m. at 113 East Third Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing by October 18, 1984 the following office: Ilse R. Dickerson, Executive Director, Crime Victims Compensation Board, 113 East Third Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ilse R. Dickerson

(1) Type and number of entities affected: Crime victims who are eligible for Medicaid (estimated at 52 per year).

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: It is impossible to estimate the amount of savings which may result.

2. Continuing costs or savings: Amount of savings may increase as the cost of medical care escalates.

3. Additional factors increasing or decreasing costs: See 2.

(b) Reporting and paperwork requirements: The board must notify KMAP of each crime victim claim filed for medical expenses for a determination of that victim's eligibility under KMAP.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods considered.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: KRS 205.510, KRS 205.630

(a) Necessity of proposed regulation if in conflict: To avoid any possible overlap or duplication in payments to crime victims who are Medicaid-eligibles.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Yes. See 5(a).

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Tiering was not applicable in this instance.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Payments to crime victims who are Medicaid-eligibles.

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE: No

TYPE OF MANDATE:

LEVEL(S) OF IMPACT: None

BUDGET UNIT(S) IMPACT: The board will no longer consider awards for any Medicaid-covered procedure or charge. It is impossible to estimate the amount of savings which may result.

FISCAL SUMMARY: It is impossible to estimate the amount of savings.

MEASURE'S PURPOSE: To avoid any possible overlap or duplication in payments to crime victims who are Medicaid-eligibles.

PROVISION/MECHANICS: Coordination of efforts between the two agencies are set out in Section 1 of the regulation.

FISCAL EXPLANATION: See Necessity and Function of the regulation.

TOURISM CABINET

Department of Fish and Wildlife Resources

301 KAR 2:180. Hunter education training requirements.

RELATES TO: KRS 150.015

PURSUANT TO: KRS 13A.100, 150.025

NECESSITY AND FUNCTION: In accordance with KRS 150.015 this regulation is necessary to make available Hunter Education Training which will enhance the safety and well-being of firearm and bow and arrow users and other citizens, improve the image of hunters and the sport of hunting, and to increase the awareness and knowledge of Kentucky's resources and their management, and to improve hunter skills, techniques, and proficiency. The function of this regulation is to establish the requirements for Hunter Education Training.

Section 1. All residents of Kentucky and of states that accept the Kentucky Hunter Education Certificate are eligible for Hunter Education Training.

Section 2. All participants in Hunter Education Training who are within sixty (60) days of their 10th birthday or older are eligible to receive a hunter education certificate if they have completed all of the following requirements:

(1) Attended all ten (10) hours of the required training.

(2) Taken an eighty (80) question written examination and answered at least sixty-five (65) questions correctly.

(3) Participated in the live firing exercise and exhibited safe firearms and archery equipment handling practices.

Section 3. Hunter Education Training classes are scheduled statewide on a need basis by the Hunter Education Coordinator where appropriate classrooms and range facilities exist.

Section 4. Hunter Education Training is provided by Department of Fish and Wildlife Hunter Training Officers or by volunteer Hunter Education instructors trained by the Department of Fish and Wildlife.

Section 5. Requirements for training as a volunteer Hunter Education instructor:

(1) Must complete an instructor application provided by the Department of Fish and Wildlife Resources.

(2) Be at least twenty-one (21) years of age or older.

(3) Shall not have been convicted of a fish and game violation or a felony.

Section 6. Applicants for training as volunteer Hunter Education instructors who have met all the requirements in Section 5 of this regulation must successfully complete twelve (12) hours of Hunter Education Instructor training, provided by a Department of Fish and Wildlife Hunter Training Officer, for certification.

Section 7. Certification as a volunteer Hunter Education instructor is valid for one (1) year. Volunteer Hunter

Education instructors shall participate in one (1) ten (10) hour Hunter Education training class per year or successfully complete twelve (12) hours of Hunter Education instructor training again for renewal of certification.

Section 8. A volunteer Hunter Education instructor's certification shall be revoked when an instructor is convicted of a fish and game violation or felony. Certification may be revoked when an instructor exhibits any conduct unbecoming an instructor.

Section 9. Any appeals of revocation of certification may be submitted in writing to the commissioner within sixty (60) days of any such action. Any adverse decision of the commissioner may be appealed to the commission in writing within sixty (60) days of the adverse decision of the commissioner and it shall be heard at the next regularly scheduled meeting.

CARL E. KAYS, Commissioner

ROBERT C. WEBB, Chairman

G. WENDALL COMBS, Secretary

APPROVED BY AGENCY: September 14, 1984

FILED WITH LRC: September 14, 1984 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 29, 1984 at 2 p.m. in the meeting room of the Arnold L. Mitchell Building, No. 1 Game Farm Road, Frankfort, KY. Those interested in attending this hearing shall contact: Marion C. Mattingly, Conservation Education Division, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, No. 1 Game Farm Road, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None. This program is provided free of charge to all citizens.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Each participant in the program must complete a class application and an eighty (80) question written examination.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Costs the first year to the agency are as follows:

\$26,800 Expendable class supplies and employee expenses.

\$105,227 Non-expendable equipment, salaries and other on-going services.

\$131,627 TOTAL

2. Continuing costs or savings: Continuing costs are directly affected by increased salaries for employees and any change in equipment costs.

3. Additional factors increasing or decreasing costs: Increased numbers of students will increase the cost of expendable supplies. Increasing the number of students will actually reduce the cost per student trained.

(b) Reporting and paperwork requirements: Each class conducted requires the following paperwork to be completed: Student certification list, student certification card, student record file card, ammunition expended report, volunteer instructor time and activity record.

(3) Assessment of anticipated effect on state and local revenues: Program is federally funded through the Pitt-

man Robertson Act. Increase or decrease of expenditures increases or decreases amounts of federal funds coming to the program. Allocated funds not used by the program are lost.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Two (2) alternates to this program exist, they are: suspension of existing program which would be detrimental to hunters and other citizens of the Commonwealth; changing existing program from voluntary to statewide mandatory which would require additional employees and increased equipment.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No other agency has this responsibility.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Tiering was not applied because this program provides a benefit that is equally available to all.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Hunter Education Training Requirements

SPONSOR: Kentucky Department of Fish and Wildlife Resources

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE: No

TYPE OF MANDATE:

LEVEL(S) OF IMPACT:

BUDGET UNIT(S) IMPACT:

FISCAL SUMMARY:

MEASURE'S PURPOSE:

PROVISION/MECHANICS:

FISCAL EXPLANATION:

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection

401 KAR 100:020. Hazardous substance designation and spill notification.

RELATES TO: KRS 224.012, 224.060, 224.071, 224.320, 224.330, 224.710, 224.830, 224.842, 224.862, 224.864, 224.866, 224.868, 224.873, 224.886, 224.895

PURSUANT TO: KRS 224.017, 224.033, 224.877

NECESSITY AND FUNCTION: KRS 224.017, 224.033, and the environmental protection provisions of KRS Chapter 224 require the Natural Resources and Environmental Protection Cabinet to promulgate regulations for protection of the environment with respect to air pollution, water pollution, solid and hazardous waste management and emergency response. This chapter establishes general environmental protection requirements. This regulation defines essential terms used in connection with environmental protection and establishes the reporting requirements and the designation of hazardous substances.

Section 1. Applicability. This regulation applies to any person having possession of or control over a hazardous substance which is discharged in a quantity or concentration which exceeds the limits permitted by law.

Section 2. The words or phrases below shall have the following meaning for KRS 224.877 and this regulation. Words or phrases defined in KRS 224.877(1) shall have the same meaning in this regulation. Other words and phrases in this regulation shall have the meaning given to them in KRS Chapter 224 and the regulations promulgated pursuant thereto. Words or phrases not defined in this regulation or KRS Chapter 224 or the regulations promulgated pursuant thereto, shall have the meaning ascribed to them in ordinary custom and usage.

(1) "Discharge which exceeds the limits permitted by law" means the most stringent of any limit on the quantity or concentration of the discharge of any hazardous substance established by any state or federal permit, order, regulation or statute. If no limit has been so established, any discharge of a hazardous substance shall be presumed to exceed the limits permitted by law.

(2) "To restore the environment to the extent practicable" means to return all land, air or waters of the Commonwealth upon or into which any discharge of any hazardous substance which exceeded the limits prescribed by law occurred to its original condition and properties including but not limited to its physical, chemical, biological, thermal and radioactive properties within any time period established by the cabinet or within a reasonable period of time if no limit has been established by use of any method, subject to prior review and approval of the method by the cabinet, without regard to cost.

(3) "Actual cost" includes but is not limited to any salary, fringe benefit, overhead, travel, per diem, gasoline, meals, equipment, contractual services or other similar costs determined by the cabinet.

(4) "Environmental response center" or "center" means the Environmental Response Center within the Department for Environmental Protection.

Section 3. Notification to the Cabinet of Discharges. (1) Any person possessing or controlling a hazardous substance which discharges in excess of any limit set by law shall, immediately upon having actual or constructive knowledge of the discharge, notify the Environmental Response Center at telephone number (502) 564-2380.

(2) In the notice pursuant to subsection (1) of this section, the person shall state, at a minimum, the location of the discharge, the substance or material discharged and the approximate quantity and concentration of the discharge.

(3) The person shall submit a written report within seven (7) days of the discharge to the Environmental Response Center, Department for Environmental Protection, Natural Resources and Environmental Protection Cabinet, Frankfort, Kentucky 40601, which provides the following information:

- (a) The circumstances and cause of the discharge;
- (b) Efforts taken by the person to control or mitigate the discharge;
- (c) Actual or suspected harmful effects from the discharge, including, specifically, any possible contamination of a drinking water source or supply;
- (d) Any present or future action by the person at the site of the discharge, if necessary; and
- (e) Any other information which would facilitate an emergency spill response or the restoration of the environment.

Section 4. The following substances are designated as hazardous substances subject to the provisions of KRS 224.877 and this regulation:

(1) Any hazardous waste as defined or listed in 401 KAR Chapter 31.

(2) Any solid waste the discharge, release or threatened release of which could cause or contribute to an environmental emergency or which would otherwise meet the definition of a hazardous substance in KRS 224.877(1)(b).

(3) Any substance the discharge of which into surface waters or waters of the Commonwealth could cause or contribute to a violation of 401 KAR 5:031, Section 3(4) or Section 3(6) or could result in an instream concentration in excess of that established in 401 KAR 5:031, Section 5.

(4) Any substance for which an emission standard has been established pursuant to 401 KAR Chapter 57.

(5) Any substance which has been identified as a potentially hazardous matter or toxic substance pursuant to 401 KAR 63:020, Section 2(2).

(6) Any material designated as hazardous material for purposes of transportation in 49 Code of Federal Regulations 172.101, 173 or 174.

(7) Any substance regulated pursuant to the Toxic Substances Control Act, 15 U.S.C. 2601 et seq.

(8) Any substance regulated by the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136 et seq.

(9) Oil as defined at 401 KAR 5:090, Section 2(15).

(10) Any other substance which would meet the definition of hazardous substance at KRS 114.877(1)(b).

Section 5. For the convenience of persons who may be or become subject to the provisions of KRS 224.877, the cabinet will, from time to time, publish and make available a list of those substances designated as hazardous pursuant to Section 4 of this regulation to the best ability of the cabinet. However, the omission or noninclusion of any substance from this list or the failure to publish a list shall not be binding on the cabinet or prohibit any substance from being designated as a hazardous substance or prohibit the provisions of KRS 224.877 from being applicable. This list may be obtained upon request to the Environmental Response Center, Department for Environmental Protection, Natural Resources and Environmental Protection Cabinet, Frankfort, Kentucky 40601.

Section 6. Conflicting Provisions. The provisions in this regulation are to be construed as being compatible with and complementary to each other. In the event that any of these provisions are found to be in conflict, either within themselves or with any other applicable provisions, the most stringent shall apply.

Section 7. Severability. In the event that any provision of KRS Chapter 224 or any provision or regulation promulgated pursuant thereto is found to be invalid, the remaining provisions shall not be affected or diminished thereby.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: September 14, 1984

FILED WITH LRC: September 14, 1984 at noon

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled in the Capital Plaza Tower Auditorium on October 31, 1984, at 10 a.m. EDT. Persons interested in attending this public hearing shall contact: William C. Burger II, Environmental Response Coordinator, Environmental Response Center, Department for Environmental Protection, Natural Resources and Environmental Protection Cabinet, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601. The written comment period will close at 4:30 p.m. EDT on October 31, 1984.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: William C. Burger II, Environmental Response Coordinator, Department for Environmental Protection

(1) Type and number of entities affected: This regulation affects all persons in the Commonwealth possessing or controlling hazardous substances.

(a) Direct and indirect costs or savings to those affected:

1. First year: The notification requirement of this regulation is the same as that contained in KRS 224.877. However, since a specific list of hazardous substances has been designated, it is probable that persons not currently reporting spills of hazardous substances will become aware of the requirements and take appropriate action to begin notifying the Natural Resources and Environmental Protection Cabinet. It is also probable that earlier notification of spills of hazardous substances will allow the cabinet a quicker response time, and therefore, reduce clean up costs.

2. Continuing costs or savings: The notification requirements may create a burden on industry to report seemingly harmless spills, but at the same time, this may lead to an awareness on how to better handle hazardous substances, and therefore, improve safety costs.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: A written report is required within seven days of the spill. The report requires that the circumstances and cause of the discharge be given, the mitigation efforts taken, the actual or suspected harmful effects from the discharge, any present or future action by the person at the site of the discharge and any other information which would facilitate an emergency spill response or the restoration of the environment.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: It is anticipated that there will be a greater number of notifications of hazardous substance spills and this may create additional personnel costs due to overtime worked.

2. Continuing costs or savings: Same as (a)1 above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is some overlap in notification requirements during emergency incidents. Reporting requirements exist in the areas of water; 401 KAR 5:015, 401 KAR 5:065, Air; 401 KAR 50:055 and Waste; 401 KAR 33:030, 401 KAR 34:040, 401 KAR 35:030. This overlap is resolved by the fact that there exists a single contact point that is able to take notifications 24 hours a day, 7 days a week.

(a) Necessity of proposed regulation if in conflict: Not in conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: In the event of a conflict, a section was included in the regulation that states the most stringent rule or provision applies.

(6) Any additional information or comments: This regulation adopts by reference federal and state lists of hazardous substances currently in existence.

Tiering:

Was tiering applied? Not applicable. Spills of hazardous substances are common in their danger.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET**
Department for Natural Resources
Division of Forestry

402 KAR 3:010. Policies incorporated by reference.

RELATES TO: KRS 13A.130, 149.010, 149.510

PURSUANT TO: 13A.190, 149.010

NECESSITY AND FUNCTION: KRS 149.010 requires the division to promulgate regulations to protect and supervise forest property and to advance forest interests of the state. This regulation provides for the incorporation by reference of the policies that are used by the Division of Forestry.

Section 1. The following documents from the Kentucky Division of Forestry are incorporated herein by reference:

(1) Major Timber Sales on state forest property Policy and Procedure Memorandum 85-01.

(2) Minor Timber Sales on state forest property Policy and Procedure Memorandum 85-02.

(3) Policy and Procedure Memorandum 85-03 Free Removal of Forest Products on state forests.

(4) Rural Community Fire Protection Program Policy and Procedure Memorandum 85-04.

CHARLOTTE E. BALDWIN, Secretary
DONALD A. HAMM, Director

APPROVED BY AGENCY: September 4, 1984

FILED WITH LRC: September 13, 1984 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled for the hour of 9 a.m. on October 23, 1984, at the Auditorium, Capital Plaza Tower, Frankfort, Kentucky 40601. Persons wishing to be heard shall notify in writing Donald A. Hamm, Director, Division of Forestry, 627 Commanche Trail, Frankfort, Kentucky 40601, not later than five days prior to the date of the hearing.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Donald A. Hamm, Director

(1) Type and number of entities affected: This regulation incorporates by reference policies and guidelines utilized by the Division of Forestry for timber sales and use of state forest products and also for distribution of grant funds to fire departments. These policies contain no regulatory provisions.

(a) Direct and indirect costs or savings to those affected: Adoption of these policies by regulation will impose no additional costs or savings.

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: The regulation will impose no new paperwork or reporting requirements.

(2) Effects on the promulgating administrative

body: This emergency regulation will allow the Division of Forestry to continue to administer state forest products as it has in the past and to administer an upcoming round of grants to fire departments.

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: This regulation will impose no reporting or paperwork requirements which do not already exist.

(3) Assessment of anticipated effect on state and local revenues: None. These policies formalize procedures which have been the standard practice of the Division of Forestry for some time. There is no effect on state or local revenues anticipated.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The method chosen was the most expeditious and cost effective method available for complying with the statutory requirements.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: This regulation is made necessary by the provisions of KRS 13A.130 which prohibits an administrative body from developing policies which are not then adopted as administrative regulations. The intent of this proposed regulation is to adopt, in a form required by KRS Chapter 13A, those forestry policies which affect entities external to the Cabinet.

Tiering:

Was tiering applied? Yes. Tiering was applied to the sale of timber from state forests. The sales are divided into major and minor sales, and different requirements apply to each.

TRANSPORTATION CABINET Department of Highways

603 KAR 5:140. Hauling building materials to a road construction project.

RELATES TO: KRS 189.221, 189.222

PURSUANT TO: KRS 174.080

NECESSITY AND FUNCTION: This regulation is for the purpose of specifying the conditions for which trucks hauling building materials to a road construction project may haul up to 80,000 pounds gross weight without a permit on the public highways.

Section 1. Trucks hauling building materials to a road construction project may haul up to 80,000 pounds on the public highway system in accordance with KRS 189.221(6), provided that the axle weight limits set forth in KRS 189.222 are not exceeded. However, in no event shall a truck hauling building materials to a road construction project be authorized to exceed the capacity of any structure within the public highway system as determined by the Department of Highways.

Section 2. Trucks hauling building materials to a road construction project over the public highway system can-

not exceed the legal axle weight limits or dimensional limits outlined in KRS 189.221 and 189.222 and in 603 KAR 5:096 unless a special permit is obtained pursuant to the provisions of KRS Chapter 189.

Section 3. This regulation shall not be construed so as to authorize the operation of any motor vehicle to exceed federal law or regulations which would in any way jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky.

Section 4. Prior to the beginning of hauling operations, any person hauling pursuant to this administrative regulation shall notify the highway district engineer for the county in which the road over which he intends to haul is located. He shall obtain from the district engineer a Department of Highways written notification attesting to the capacity of every bridge or structure to be utilized as part of the haul route.

Section 5. This administrative regulation is neither identical to nor substantially the same as 603 KAR 5:130 which has been withdrawn.

A. STEPHEN REEDER, Commissioner
FLOYD G. POORE, Secretary

APPROVED BY AGENCY: August 27, 1984

FILED WITH LRC: August 27, 1984 at 12:30 p.m.

PUBLIC HEARING SCHEDULED: A public hearing will be held on this proposed administrative regulation on Tuesday, October 23, 1984, at 10 a.m. local prevailing time in the fourth floor hearing room of the State Office Building, corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by October 18, 1984 so notify: Larry E. Moore, Assistant to the Secretary, Transportation Cabinet, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry E. Moore

(1) Type and number of entities affected: Highway Contractors operating in Kentucky

(a) Direct and indirect costs or savings to those affected: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Will be necessary to obtain from Department of Highways a weight bearing capacity statement for structures to be crossed.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: It will be necessary to perform weight bearing capacity analysis and issue statement for structures to be crossed.

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. N/A

EDUCATION AND HUMANITIES CABINET

Department of Education
Office of Local Services

702 KAR 1:120. School board member educational qualifications.

RELATES TO: KRS 160.180

PURSUANT TO: KRS 156.070, 160.180

NECESSITY AND FUNCTION: KRS 160.180 requires, effective July 13, 1984, that all new school board members elected after July 1, 1984, shall have completed at least the twelfth grade or the equivalent thereof as determined by an examination held under rules and regulations adopted by the State Board of Education. Although the GED examination is a recognized equivalent, pursuant to 705 KAR 7:030, such recognition is not specifically for the purposes of KRS 160.180. This regulation is necessary to clarify the situation for those candidates without a high school diploma.

Section 1. The following definitions apply in determining qualification to serve on a local board of education, pursuant to KRS 16.180:

(1) A twelfth grade education means completion of high school and receipt of a high school diploma as issued by a local board of education within the guidelines of the curriculum requirements of the State Board of Education; or

(2) High school equivalency (GED) certificate as defined in 705 KAR 7:030.

ALICE MCDONALD,

Superintendent of Public Instruction

APPROVED BY AGENCY: September 12, 1984

FILED WITH LRC: September 14, 1984 at noon

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 9 a.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Robert E. Spillman

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Any tiering is already mandated by the statute.

EDUCATION AND HUMANITIES CABINET

Department of Education
Bureau of Pupil Personnel Services

703 KAR 1:090. Competitive foods rule.

RELATES TO: KRS 156.035, 156.160

PURSUANT TO: KRS 156.035, 156.070, 156.160

NECESSITY AND FUNCTION: KRS 156.035 authorizes the State Board of Education to implement the provisions of any act of Congress appropriating and apportioning funds to the state; and KRS 156.160 requires the State Board to adopt rules and regulations relating to medical inspection, physical education, and recreation, and other rules and regulations deemed necessary or advisable for the protection of the physical welfare and safety of public school children. This regulation implements such duties by adopting a more stringent, but necessary, competitive food rule than that of the federal government relative to meals served under the National School Lunch Program and the School Breakfast Program.

Section 1. (1) The purpose of this regulation is to restrict the sale of foods in competition with meals served under the National School Lunch Program and the School Breakfast Program. This regulation restricts the sale of categories of foods of minimal nutritional value from the beginning of the school day until thirty (30) minutes past the end of the last lunch period throughout the school campus. These categories of foods are identified as follows:

(a) Soda water—twelve (12) fluid ounces;

(b) Water ices—three (3) fluid ounces;

(c) Chewing gum—one (1) stick or piece;

(d) Certain candies—one and five-tenths (1.5) ounces—hard candies, jellies and gums, marshmallow candies, fondants, licorice, spun candies, candy coated popcorn.

(2) For those competitive foods not listed in the restrictive food categories of minimal nutritional value, school food authorities are encouraged to adopt a stricter policy than that adopted by the State Board of Education, as this rule is intended to be a minimum state standard; and the proceeds from the sale of any non-restricted competitive foods must inure to the benefit of the school's non-profit meal program or to the school or to student organizations approved by the school.

Section 2. Foods of minimal nutritional value are defin-

ed as those foods which provide less than five (5) percent of the U.S. Recommended Dietary Allowance (USRDA) for each of eight (8) specified nutrients per 100 calories and per serving. Artificially sweetened foods are evaluated only on a per serving basis. The eight (8) nutrients are: protein, vitamin A, ascorbic acid (vitamin C), niacin, riboflavin, thiamin, calcium, and iron. The nutrient analysis used to evaluate foods under the competitive food rule is a dual method which assesses the levels of nutrients in units of food as they are commonly served and the food's nutrient content in relation to its energy or caloric value.

Section 3. Categories of Foods of Minimal Nutritional Value. (1) Soda water—As defined by 21 CFR 165.175 Food and Drug Administration regulations, except that artificial sweeteners are an ingredient that is included in this definition.

(2) Water ices—As defined by 21 CFR 135.180 Food and Drug Administration regulations, except that water ices which contain fruit or fruit juices are not included in this definition.

(3) Chewing gum—Flavored products from natural or synthetic gums and other ingredients which form an insoluble mass for chewing.

(4) Certain candies—Processed foods made predominately from sweeteners or artificial sweeteners with a variety of minor ingredients which characterize the following types:

(a) Hard candy—A product made predominately from sugar (sucrose) and corn syrup which may be flavored and colored and is characterized by a hard, brittle texture, and includes such items as sour balls, fruit balls, candy sticks, lollipops, sterlight mints, after dinner mints, sugar wafers, rock candy, cinnamon candies, breath mints, jaw breakers, and cough drops.

(b) Jellies and gums—A mixture of carbohydrates which are combined to form a stable gelatinous system of jell-like character and are generally flavored and colored and include gum drops, jelly beans, jellied, and fruit-flavored slices.

(c) Marshmallow candies—An aerated confection composed of sugar, corn syrup, invert sugar, twenty (20) percent water and gelatin or egg white to which flavors and colors may be added.

(d) Fondant—A product consisting of microscopic-sized sugar crystals which are separated by a thin film of sugar and/or invert sugar in solution such as candy corn, soft mints.

(e) Licorice—A product made predominately from sugar and corn syrup which is flavored with an extract made from the licorice root.

(f) Spun candy—A product that is made from sugar that has been boiled at high temperature and spun at a high speed in a special machine.

(g) Candy coated popcorn—Popcorn which is coated with a mixture made predominately from sugar and corn syrup.

Alice McDonald

Superintendent of Public Instruction

APPROVED BY AGENCY: September 12, 1984

FILED WITH LRC: September 14, 1984 at noon.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 9 a.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing:

Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If no requests to testify have been received by that date, the above regulation will be removed from the agenda

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Rendell T. Butler

(1) Type and number of entities affected: All schools operating a National School Lunch or Breakfast Program.

(a) Direct and indirect costs or savings to those affected: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: This regulation adopts previous federal regulation. No effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The previous regulation is workable and the schools are familiar with it. Our professional organizations KASFA and KSFA support continuing the language of the current policy.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. This regulation needs to be uniform to all schools operating NSLP or Breakfast. Integrity of these programs need to be ensured regardless of size of school food authority.

EDUCATION AND HUMANITIES CABINET

Department of Education
Office of Instruction

704 KAR 20:305. Written examination prerequisites for teacher certification.

RELATES TO: KRS 161.030

PURSUANT TO: KRS 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.030 requires that, effective January 1, 1985, all new teachers, including out-of-state teachers with less than five (5) years' experience, successfully complete appropriate written tests prior to initial certification in Kentucky. The tests are to measure communication skills, general knowledge, professional education concepts, and knowledge in the specific teaching field of the applicant. The State Board of Education is charged with selecting the tests; determining minimum acceptable levels of achievement on each test; establishing a reasonable fee related to the cost of ad-

ministration of the tests, such fees to be paid by the teacher applicants; and establishing procedures for persons having less than minimum levels of performance on any test to repeat that test and be informed of strengths and weaknesses in performance areas. This regulation implements such duties relative to teacher testing.

Section 1. Effective January 1, 1985, all new teacher applicants and out-of-state applicants for certification with less than five (5) years of teaching experience shall successfully complete the appropriate written tests prior to initial Kentucky certification. Each applicant shall successfully complete the National Teacher Examinations for communication skills, general knowledge, and professional knowledge, except that the applicants for certification as teachers of industrial education described in 704 KAR 20:222 shall take other designated examinations. In addition, each applicant shall successfully complete the appropriate specialty examination corresponding to the teacher's preparation and selected from the National Teacher Examinations specialty tests with the following exceptions:

(1) Applicants prepared for vocational agriculture and applicants prepared for health education shall take the specialty examinations developed by the Department of Education and approved by the State Board of Education.

(2) Applicants for health occupations shall take the examination required for state licensure in the respective health occupations specialty.

(3) Applicants for certification in industrial education—preparation level, as described in 704 KAR 20:222, shall take other designated specialty tests.

(4) Applicants whose teaching specialty is in a major for which no appropriate specialty test is available shall not be required to take a specialty test, except that effective January 1, 1988, such teacher applicants shall take the test corresponding to the minor teaching specialty.

Section 2. In order to satisfy the testing prerequisites for teacher certification, and before an initial certificate is granted, each applicant shall make the minimum passing score on each of the four (4) tests of communication skills, general knowledge, professional knowledge, and the specialty test in the applicant's teaching field. The minimum passing scaled scores for the respective tests are established as follows:

(1) The National Teacher Examinations Core Battery Tests:

(a) Communication Skills—643;

(b) General Knowledge—637;

(c) Professional Knowledge—641.

(2) The National Teacher Examinations Specialty Tests:

(a) Art Education—465;

(b) Biology and General Science—517;

(c) Business Education—489;

(d) Chemistry, Physics and General Science—465;

(e) Early Childhood Education—471;

(f) Education in the Elementary School—480;

(g) English Language and Literature—476;

(h) French—463;

(i) German—473;

(j) Home Economics Education—502;

(k) Industrial Arts Education—513;

(l) Introduction to the Teaching of Reading—469;

(m) Mathematics—464;

(n) Music Education—477;

(o) Physical Education—494;

(p) Social Studies—464;

(q) Spanish—475;

(r) Speech-Communication and Theatre—411; and

(s) Media Specialist-Library and Audiovisual Services—547.

Section 3. Applicants for certification at the elementary level, middle grade level, school media librarian, and for special education shall take the designated specialty tests indicated below in addition to the tests for communication skills, general knowledge, and professional knowledge:

(1) Provisional Elementary Certificate—Education in the Elementary School Test;

(2) Provisional Certificate for Early Childhood Education—Early Childhood Education Test;

(3) Provisional Certificate for Teaching in the Early Elementary Grades—Early Childhood Education Test;

(4) Provisional Certificate for Teaching in the Middle Grades—Education in the Elementary School Test;

(5) Provisional Certificate for School Media Librarian—Media Specialist-Library and Audiovisual Services Test;

(6) Provisional Certificate for Teachers of Exceptional Children Grades K-12—Speech and Communication Disorders—no appropriate test available;

(7) Provisional Certificate for Teachers of Exceptional Children Grades K-12 (other than for speech and communication disorders)—Education in the Elementary School Test; and

(8) Provisional Certificate for Teachers of Exceptional Children Grades 7-12 (other than for speech and communication disorders)—The specialty test corresponding to the high school teaching major.

Section 4. Applicants for certification at the high school level shall take the test corresponding to the area or major teaching specialty as designated below in addition to the tests for communication skills, general knowledge, and professional knowledge:

(1) Accounting—Business Education Test;

(2) Accounting-General Business—Business Education Test;

(3) Accounting-Secretarial Practice—Business Education Test;

(4) Art—Art Education Test;

(5) Basic Business—Business Education Test;

(6) Biology—Biology and General Science Test;

(7) Business Education (area)—Business Education Test;

(8) Chemistry—Chemistry, Physics and General Science Test;

(9) Distributive Education—Business Education Test;

(10) Dramatics—Speech Communication Test;

(11) Dramatics-Speech—Speech Communication Test;

(12) Earth Science—No test available;

(13) Economics—Social Studies Test, see Section 5 of this regulation;

(14) Economics-Sociology—Social Studies Test, see Section 5 of this regulation;

(15) English—English Language and Literature Test;

(16) French—French Test;

(17) General Business—Business Education Test;

(18) General Business—Secretarial Practice—Business Education Test;

(19) Geography—Social Studies Test, see Section 5 of this regulation;

(20) German—German Test;

(21) Health—Department of Education test for health education;

- (22) Health Occupations—Test by the state licensing agency corresponding to the health specialty;
- (23) History—Social Studies Test;
- (24) History-Political Science—Social Studies Test;
- (25) Industrial Education—Orientation and Exploration Levels—Industrial Arts Education Test;
- (26) Industrial Education—Preparation Level (area)—Shall take other designated special test corresponding to the preparation specialty;
- (27) Journalism—No test available;
- (28) Latin—No test available;
- (29) Mathematics—Mathematics Test;
- (30) Mathematics-Physical Science (area)—Select from either Mathematics Test or Chemistry, Physics and General Science Test;
- (31) Music (either vocal and/or instrumental)—Music Education Test;
- (32) Physical Education—Physical Education Test;
- (33) Physics—Chemistry, Physics, and General Science Test;
- (34) Political Science—Social Studies Test;
- (35) Psychology—No test available;
- (36) Science (area)—Select from either Biology and General Science Test or Chemistry, Physics and General Science Test;
- (37) Secretarial Practice—Business Education Test;
- (38) Secretarial Studies—Business Education Test;
- (39) Social Studies (area)—Social Studies Test;
- (40) Sociology—Social Studies Test, see Section 5 of this regulation;
- (41) Spanish—Spanish Test;
- (42) Speech—Speech Communication Test;
- (43) Vocational Agriculture—Department of Education test for vocational agriculture; and
- (44) Vocational Home Economics—Home Economics Education Test.

Section 5. Teacher applicants whose major specialty is in economics, economics-sociology, geography, or sociology shall take the specialty test in Social Studies for research and validation purposes, but shall not be required to make the passing score established in Section 2 of this regulation.

Section 6. Applicants for initial certification may take the National Teacher Examinations on any of the dates established by the Educational Testing Service for national administration or on such dates as may be established by the Kentucky Department of Education for special administration. Applicants must authorize test results to be forwarded by the Educational Testing Service to the Kentucky Department of Education. Public announcement of testing dates and locations shall be issued sufficiently in advance of testing dates to permit advance registration as required by the Educational Testing Service. It shall be the responsibility of each applicant to seek information regarding the dates and location of the tests and to make application for the appropriate examinations prior to the deadlines established and sufficiently in advance of anticipated employment to permit test results to be received by the Department of Education and processed in the normal certification cycle.

Section 7. Applicants shall pay an examination fee for the relevant test(s) required to be taken, as such fees are currently established by the Educational Testing Service, publisher of the National Teacher Examinations, unless a lesser fee has been negotiated by the Department of Educa-

tion. Fees for specialty tests developed by the Department of Education shall be equivalent to the current fees for such tests administered by the Educational Testing Service.

Section 8. Applicants who fail to achieve at least the minimum score on one (1) or more of the core battery examinations (communication skills, general knowledge, professional knowledge) or on the specialty examination appropriate to the teaching field shall be permitted to retake the test or those tests no more than two (2) additional times and only during one (1) of the scheduled test administrations. However, initial certification will not be granted until acceptable scores are achieved in each of the four (4) areas tested.

Section 9. The Department of Education shall collect such data and conduct such analyses of the impact of these tests as to permit a review of these regulations on an annual or biennial basis.

ALICE McDONALD

Superintendent of Public Instruction

APPROVED BY AGENCY: September 11, 1984

FILED WITH LRC: September 14, 1984 at noon.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 24, 1984, at 1 p.m., EDT, in the State Board Room, 1st Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, 1st Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 19, 1984. If no requests to testify have been received by that date, the above regulation will be removed from the agenda

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald, Attention: James Fouché

(1) Type and number of entities affected: New teacher applicants for Kentucky teacher certification (excluding applicants for administrative type certificates).

(a) Direct and indirect costs or savings to those affected: N/A

1. First year: A testing fee of approximately \$75 for each applicant to be paid by the applicant directly to the testing agency.

2. Continuing costs or savings: Each new teacher applicant will have to take the required test at a cost of \$75, perhaps higher in future years.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: All test scores must be reported to the Department of Education and associated with the application for teacher certification—a considerable increase in clerical work.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The cost of establishing a clerical system to notify teacher applicants of the testing requirement and to handle the data on test scores once completed, including cost of word processing and computer services.

2. Continuing costs or savings: 1. above is a continuing cost.

3. Additional factors increasing or decreasing costs: As the data accumulate from year to year, the maintenance cost will increase.

(b) Reporting and paperwork requirements: Notify

teacher applicants of testing requirement, receiving and maintaining data on test scores, statistical tabulation of test scores.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None, implements Senate Bill 19 which is quite prescriptive.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None.

Tiering:

Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same testing requirements for certification.

PUBLIC PROTECTION AND REGULATION CABINET Department of Alcoholic Beverage Control

804 KAR 4:260. Horse race track license.

RELATES TO: KRS 243.030(25), 243.040(10)

PURSUANT TO: KRS 13A.100, 241.060

NECESSITY AND FUNCTION: KRS 243.030(25) and KRS 243.040(10) authorize the Alcoholic Beverage Control Board to issue such other special licenses as the board may find necessary for the proper regulation and control of the traffic in alcoholic beverages. The growth of the horse racing industry and the proliferation of various horse race tracks necessitates the adoption of a special license for such horse race tracks designed to license the retail sale of distilled spirits, wine and malt beverages.

Section 1. A horse race track license may be issued for the retail sale of distilled spirits, wine and malt beverages for consumption on the premises of any horse race track licensed by the appropriate licensing authority of the Commonwealth of Kentucky.

Section 2. This license shall license all alcoholic beverage sales on the premises, with the exception that a separate private club license may be issued to a portion of the licensed premises set aside for such purpose and meeting the qualifications of KRS 243.270.

Section 3. The issuance of this license shall be at the discretion of the Distilled Spirits Administrator and the Malt Beverage Administrator.

Section 4. The licenses issued hereunder shall be non-quota licenses and shall not be transferable to other premises.

Section 5. Except as provided hereunder, licenses issued under this regulation shall be governed by all the statutes and regulations governing the retail sale of distilled spirits and wine by the drink and the retail sale of malt beverages. Proceedings relative to application, renewal, suspension or revocation of these licenses shall be conducted in the same manner and extent as regular drink and regular malt beverage licenses.

Section 6. The licensee fee for the horse race track license shall be \$1,000.00, and the fee shall be prorated as set forth in KRS 243.090(2). All such licenses shall expire at midnight on June 30 of each year.

EDWARD A. FARRIS, Commissioner
MELVIN WILSON, Secretary

APPROVED BY AGENCY: September 10, 1984

FILED WITH LRC: September 11, 1984 at 8:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on the above proposed regulation will be held on Wednesday, October 24, 1984, at 10 a.m., EDT, in the Hearing Room of the Department of Alcoholic Beverage Control, 123 Walnut, Frankfort, Kentucky. Unless requests for a public hearing are received five (5) days before the hearing date, the public hearing will be cancelled. Those who may be interested in attending, please contact: Bonnie H. Hall, Secretary to the Board, Alcoholic Beverage Control Board, 123 Walnut, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Edward A. Farris, Commissioner

(1) Type and number of entities affected: + 7

(a) Direct and indirect costs or savings to those affected: Negligible.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: Negligible.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: N/A

(3) Assessment of anticipated effect on state and local revenues: Negligible.

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: N/A

Tiering:

Was tiering applied? No. N/A

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance

806 KAR 2:096. Disclosure of municipal premium taxes; unfair discrimination.

RELATES TO: KRS 91A.080, 304.12-080, 304.12-090

PURSUANT TO: KRS Chapter 13A, 91A.080, 304.2-110

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 91A.080 authorizes the Commissioner of Insurance to adopt regulations for the collection and repor-

ting of municipal premium taxes. this regulation requires that policies issued for the first time contain a notice that the premium charged includes a municipal premium tax.

Section 1. Definitions. As used in this regulation: (1) "Commissioner" means the Commissioner of the Kentucky Department of Insurance.

(2) "Municipal premium taxes" means taxes levied pursuant to KRS 91A.080.

Section 2. (1) As to property, casualty, surety, marine, title, and mortgage guaranty insurance, whenever a municipal premium tax is imposed upon insurers for the privilege of engaging in business in a city or urban-county government, the premium charge shall make provision for municipal premium taxes.

(2) As to life and health insurance, whenever a municipal premium tax is imposed upon insurers for the privilege in engaging in business in a city or urban-county government, the premium charge may make provision for municipal premium taxes.

(3) The amount of municipal premium taxes may, at the option of the insurer, be shown on the policy.

Section 3. Each policy issued to an insured for the first time shall include a notice that the premium includes a charge for municipal premium taxes if municipal premium taxes are included in the premium charge. Such notice shall be placed upon the title sheet of the policy by use of a typewriter, stamp, sticker, or any reasonable means approved by the commissioner. Such notice may, at the option of the insurer, be placed on renewal certificates and billings issued subsequent to the original policy.

Section 4. 806 KAR 14:080, Premium must show municipal taxes, is hereby repealed.

Section 5. This regulation shall become effective January 1, 1985.

GIL McCARTY, Commissioner
MELVIN WILSON, Secretary

APPROVED BY AGENCY: September 13, 1984

FILED WITH LRC: September 14, 1984 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing concerning the proposed regulation will be held on October 22, 1984, at 9 a.m. (ET) in the offices of the Kentucky Department of Insurance, 229 West Main Street, Frankfort, Kentucky 40601. Persons with an interest in the subject matter of the proposed regulation may submit written comments to Gil McCarty, Commissioner, Kentucky Department of Insurance, P.O. Box 517, Frankfort, Kentucky 40602.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Patrick Watts

Need for the Proposed Regulation: The proposed regulation is necessary to clarify when municipal premium taxes must be charged to policyholders. The proposed regulation also sets minimum standards for disclosure of municipal premium taxes to policyholders. The proposed regulation is a recodification and rewording of 806 KAR 14:080, which is repealed by the proposed regulation.

Type and number of entities affected: The proposed regulation affects all of the over 1,100 insurers authorized to do business in Kentucky as well as their agents (approximately 30,000). The proposed regulation also affects eligible surplus lines insurers (approximately 90) and surplus lines brokers (approximately 95).

1. Direct or Indirect Cost or Savings to Those Affected: The proposed regulation merely codifies current practice, both as to charging municipal premium taxes to policyholders and as to notice requirements. Therefore, the proposed regulation imposes no cost or savings upon the insurance industry.

2. Reports and Paperwork Requirements: None
Effects on the Promulgating Administrative Body: None
Assessment of anticipated Effect on State and Local Revenues: None

Assessment of Alternative Methods; Reasons Why Alternatives Were Rejected: The proposed regulation clarifies the provisions of an existing regulation which has needed updating for some time. The department does not wish to have unclear or outdated regulations.

Statutes, Rules, Regulations, or Governmental Policies Which May Conflict, Overlap or Duplicate the Proposed Regulation: None

Tiering:

Was tiering applied? Tiering has been applied in recognizing the distinctions between rating property and casualty insurance and life and health insurance. Municipal premium taxes must be charged to policyholders for property and casualty insurance while life and health insurance policyholders may be charged municipal premium taxes.

Tiering is also applied in the disclosure provisions of the regulation. Insurers are required to meet minimum standards of disclosure, but are permitted to make greater disclosure at their option.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Disclosure of Municipal Premium Taxes, Unfair Discrimination

SPONSOR: Department of Insurance

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE: No

TYPE OF MANDATE:

LEVEL(S) OF IMPACT: City

BUDGET UNIT(S) IMPACT:

FISCAL SUMMARY:

MEASURE'S PURPOSE: Establish standards of disclosure; prohibit unfair discrimination.

PROVISION/MECHANICS: Each policy issued for the first time must contain a disclosure that municipal premium taxes are being charged to policyholders (if that is the case). Municipal premium taxes must be charged to policyholders for certain kinds of insurance while this is optional for other kinds.

FISCAL EXPLANATION: No impact upon city governments.

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance

806 KAR 2:097. Filing of municipal premium tax ordinances; notification to Insurers.

RELATES TO: KRS 91A.080, 304.4-010

PURSUANT TO: KRS Chapter 13A, 91A.080, 304.2-110

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 91A.080 authorizes the Commissioner of In-

insurance to adopt regulations for the collection and reporting of municipal premium taxes. This regulation establishes procedures for cities and urban-county governments to file their municipal premium tax ordinances with the Commissioner of Insurance and provides procedures for notification to insurers of the contents of these municipal premium tax ordinances.

Section 1. Definitions. As used in this regulation: (1) "Commissioner" means the Commissioner of the Kentucky Department of Insurance.

(2) "Municipal premium taxes" means taxes levied pursuant to KRS 91A.080.

Section 2. Filing of Municipal Premium Tax Ordinances. In accordance with KRS 91A.080, any city or urban-county government which has imposed a municipal premium tax shall file a copy of its ordinance with the commissioner. Ordinances may adopt or amend a municipal premium tax on a prospective basis only. Any adopted or amended ordinance must be filed with the commissioner more than sixty (60) days prior to January 1st or July 1st of each year. If an adopted or amended ordinance is received less than sixty (60) days prior to January 1st or July 1st, the commissioner shall not notify insurers of the adopted or amended ordinance until the next notice of municipal premium taxes is published. For example, if a city or urban-county government files its adopted or amended ordinance on December 1st, insurers will not be notified of the adopted or amended ordinance until approximately thirty (30) days prior to July 1st of the next year.

Section 3. Notification to Insurers of Municipal Premium Taxes. (1) Approximately thirty (30) days prior to January 1st and July 1st of each year, the commissioner shall mail to insurers notice of those cities or urban-county governments which impose a municipal premium tax.

(2) The notice shall be mailed to the current address of the administrative offices of an insurer as on file with the commissioner.

(3) One (1) copy of the notice of municipal premium taxes shall be provided to insurers free of charge. Additional copies of the notice of municipal premium taxes or copies of the notice of municipal premium taxes requested by others shall be available only on written request and payment of five (5) dollars fee for filing the request.

Section 4. Effective Date. This regulation shall become effective January 1, 1985.

GIL McCARTY, Commissioner
MELVIN WILSON, Secretary

APPROVED BY AGENCY: September 13, 1984

FILED WITH LRC: September 14, 1984 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing concerning the proposed regulation will be held on October 22, 1984, at 9 a.m. (ET) in the offices of the Kentucky Department of Insurance, 229 West Main Street, Frankfort, Kentucky 40601. Persons with an interest in the subject matter of the proposed regulation may submit comments to Gil McCarty, Commissioner, Kentucky Department of Insurance, P. O. Box 517, Frankfort, Kentucky 40602.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Patrick Watts

Need for the Proposed Regulation: The proposed regulation is necessary to implement HB 4 (1984 Ky. Acts c. 170, eff. January 1, 1985). It establishes procedures for

cities and urban county governments to file municipal premium tax ordinances with the commissioner. Section 2 of the proposed regulation repeats the requirement of KRS 91A.080 that cities and urban county governments file their ordinances more than 60 days prior to January 1st and July 1st of each year. The proposed regulation further specifies the effect of late filing of an ordinance.

The proposed regulation also repeats the requirement of KRS 91A.080 that the department notify insurers of municipal premium taxes and further specifies that notice be mailed to the current address of the administrative offices of the insurer. Pursuant to KRS 91A.080, one copy will be given to insurers. Other copies will be available only upon filing of a request and payment of a \$5.00 fee pursuant to KRS 304.4-010(18)(a). The department currently charges a \$5.00 fee for all copies of the notice.

Type and number of entities affected: The proposed regulation will affect the over 1,100 authorized insurers. It will also affect approximately 150 cities and urban county governments which have municipal premium taxes.

1. Direct or Indirect Cost or Savings to Those Affected: None

2. Reports and Paperwork Requirements: None

Effects on the Promulgating Administrative Body: The proposed regulation will result in savings by clarifying procedures. The expense of producing and mailing the notices imposed by KRS 91A.080, not the proposed regulation.

Assessment of anticipated Effect on State and Local Revenues: None because the expense of producing and mailing the notice is imposed by KRS 91A.080. Further, cities and urban county governments which do not file their ordinances with the commissioner in a timely manner may lose revenue because the commissioner will not notify insurers of their tax ordinances. However, the proposed regulation merely echoes KRS 91A.080 in this matter.

Assessment of Alternative Methods; Reasons Why Alternatives Were Rejected: The proposed regulation is needed to clarify the procedures the department will be following to notify insurers of Kentucky municipal premium taxes. The proposed regulation is desirable to the alternative of simply remaining silent on the procedures the department will be following.

Statutes, Rules, Regulations, or Governmental Policies Which May Conflict, Overlap or Duplicate the Proposed Regulation: None

Tiering:

Was tiering applied? Tiering was not applied because all cities and urban county governments must file their ordinances with the commissioner and all insurers must be notified of these ordinances.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Filing of Municipal Premium Tax Ordinances; Notification of Insurers

SPONSOR: Department of Insurance

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE:

TYPE OF MANDATE:

LEVEL(S) OF IMPACT: City

BUDGET UNIT(S) IMPACT:

FISCAL SUMMARY:

MEASURE'S PURPOSE: Establishes procedures for filing of municipal premium tax ordinances with the Department of Insurance and notifying insurers of these ordinances.

PROVISION/MECHANICS: Cities must file ordinances

with the Department of Insurance at least 60 days prior to each January 1 and July 1. Ordinances filed late will not be recognized until the next notice is given to insurers. Insurers will be notified of ordinances approximately 30 days in advance of each January 1 and July 1.

FISCAL EXPLANATION: The impact on city governments is due to KRS 91A.080, not the proposed regulation.

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance

806 KAR 6:060. Reserve liabilities, cash surrender values, and nonforfeiture benefits for plans of life insurance with separate rates for smokers and nonsmokers.

RELATES TO: KRS 304.6-140, 304.6-145, 304.6-180, 304.15-342, and 304.15-410.

PURSUANT TO: KRS Chapter 13A, 304.2-110, 304.6-140, 304.15-410

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.6-140 provides that the commissioner may adopt regulations for the use of ordinary mortality tables adopted after 1980 by the National Association of Insurance Commissioners (NAIC). KRS 304.15-410 states that where minimum reserves cannot be determined by the methods described in KRS 304.6-150, 304.6-155, and 304.6-180, they shall be determined by a method consistent with the principals of these sections, but as determined by regulations issued by the commissioner. This regulation permits the use of mortality tables that reflect differences in mortality between smokers and nonsmokers in determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits for plans of insurance with separate premium rates for smokers and nonsmokers.

Section 1. Definitions. As used in this regulation: (1) "1980 CSO Table, with or without Ten-Year Select Mortality Factor" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the Society of Actuaries Committee to Recommend New Mortality Tables for Valuation of Standard Individual Ordinary Life Insurance, incorporated in KRS 304.6-140 and 304.15-342, and referred to therein as the Commissioners 1980 Standard Ordinary Mortality Table, with or without Ten-Year Select Mortality Factors. The same select factors will be used for both smokers and nonsmokers tables.

(2) "1980 CET Table" means that mortality table consisting of separate rates of mortality for male and female lives, developed by the Society of Actuaries Committee to Recommend New Mortality Tables for Valuation of Standard Individual Ordinary Life Insurance, incorporated in KRS 304.15-342, and referred to therein as the Commissioners 1980 Extended Term Insurance Table.

(3) "1958 CSO Table" means that mortality table developed by the Society of Actuaries Special Committee on New Mortality Tables, incorporated in KRS 304.15-340, and referred to in that model as the Commissioners 1958 Standard Ordinary Mortality Table.

(4) "1958 CET Table" means that mortality table developed by the Society of Actuaries Special Committee on New Mortality Tables, incorporated in KRS 304.15-

340, and referred to in that model as the Commissioners 1958 Extended Term Insurance Table.

(5) "Smoker and nonsmoker mortality tables" refers to the mortality tables with separate rates of mortality for smokers and nonsmokers derived from the tables defined in A through D of this section which were developed by the Society of Actuaries Task Force on Smoker/Nonsmoker Mortality and the California Insurance Department staff and recommended by the NAIC Technical Staff Actuarial Group.

(6) "Composite mortality tables" refers to the mortality tables defined in subsection (1) through (4) of this section as they were originally published with rates of mortality that do not distinguish between smokers and nonsmokers.

Section 2. Alternate Tables. (1)(a) For any policy of insurance delivered or issued for delivery in Kentucky after the effective date of KRS 304.15-342 for that policy form and before January 1, 1989, at the option of the company and subject to the conditions stated in Section 3 of this regulation:

1. The 1958 CSO Smoker and Nonsmoker Mortality Tables may be substituted for the 1980 CSO Table, with or without Ten-Year Select Mortality Factors; and

2. The 1958 CET Smoker and Nonsmoker Mortality Tables may be substituted for the 1980 CET Table for use in determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

(b) For any category of insurance issued on female lives with minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits determined using the 1958 CSO or 1958 CET Smoker and Nonsmoker Mortality Tables, such minimum values may be calculated according to an age not more than six (6) years younger than the actual age of the insured.

(c) However, the substitution of the 1958 CSO or 1958 CET Smoker and Nonsmoker Mortality Tables is available only if made for each policy of insurance on a policy form delivered or issued for delivery on or after the operative date for that policy form and before a date not later than January 1, 1989.

(2) For any policy of insurance delivered or issued for delivery in this state after the operative date of KRS 304.15-342 for that policy form, at the option of the company and subject to the conditions stated in Section 3 of this regulation:

(a) The 1980 CSO Smoker and NonSmoker Mortality Tables, with or without Ten-Year Select Mortality Factors, may be substituted for the 1980 CSO Table, with or without Ten-Year Select Mortality Factors; and

(b) The 1980 CET Smoker and Nonsmoker Mortality Tables may be substituted for the 1980 CET Table for use in determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

Section 3. Conditions. For each plan of insurance with separate rates for smokers and nonsmokers an insurer may: (1) Use composite mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits;

(2) Use smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by KRS 304.6-140 and 304.6-180 and use composite mortality tables to determine

the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or

(3) Use smoker and nonsmoker mortality to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

Section 4. Severability. If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 5. Effective Date. This regulation shall become effective upon completion of its review pursuant to KRS Chapter 13A.

GIL McCARTY, Commissioner
MELVIN WILSON, Secretary

APPROVED BY AGENCY: September 13, 1984

FILED WITH LRC: September 14, 1984 at 10 a.m.

PUBLIC HEARING SCHEDULED: Persons with an interest in the subject matter of the proposed regulation may attend a hearing scheduled for October 22, 1984, at 10 a.m. (ET) in the offices of the Kentucky Department of Insurance, 229 West Main Street, Frankfort, Kentucky 40601. Written comments may be submitted to Gil McCarty, Commissioner, at the above address. Written comments must be received by the day of the hearing scheduled above.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Patrick Watts

Need for the Proposed Regulation: The proposed regulation enables insurers to issue life insurance for nonsmokers at a lower cost than they would otherwise be able to by permitting the use of alternate mortality tables. The use of the tables prescribed by the proposed regulation more equitably reflect the cost of insurance to the public.

Type and Number of Entities Affected: The approximately 545 life insurers authorized to do business in Kentucky are affected by the proposed regulation. The proposed regulation may also have an effect upon life insurance agents doing business in Kentucky because it affects the types of products which they sell.

1. Direct or Indirect Cost or Savings to Those Affected: The proposed regulation imposes only minimal costs upon life insurers. There will be savings in calculating reserves because the proposed regulation eliminates the establishment of deficiency reserves. Further, life insurers will have guidelines for administering life insurance products with different rates for smokers and nonsmokers.

2. Reporting and Paperwork Requirements: The proposed regulation will reduce paperwork by eliminating the need to establish deficiency reserves. Otherwise, reserves will be reported in life insurers' annual statements according to procedures currently in effect.

Effects on the Promulgating Administrative Body: None
Assessment of Anticipated Effect on State and Local Revenues: None

Assessment of Alternative Methods; Reasons Why Alternatives Were Rejected: There is no alternative to the proposed regulation because KRS 304.6-140 requires the commissioner to prescribe alternative mortality tables by regulation.

Statutes, Rules, Regulations, or Governmental Policies Which May Conflict, Overlap or Duplicate the Proposed Regulation: None

Tiering:

Was tiering applied? Tiering is applied by the proposed regulation in that the purpose of the proposed regulation is to recognize the distinction between life insurance products for smokers and nonsmokers.

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance

806 KAR 6:070. Valuation of life insurance reserves.

RELATES TO: KRS 304.2-290, 304.6-130 through 304.6-180, 304.15-410

PURSUANT TO: KRS Chapter 13A, 304.2-110

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may adopt reasonable regulations necessary for or as an aid to the effectuation of the Kentucky Insurance Code. KRS 304.6-130 requires the commissioner to annually value the reserve liabilities for all outstanding life insurance policies and annuity and pure endowment contracts, as shown in the National Association of Insurance Commissioners (NAIC) Life and Accident and Health Annual Statement Form whether or not itemized in Exhibit 8 of that statement. This regulation provides the framework for valuation standards acceptable to the department, and sets out the conditions under which the actuary designated by the department will verify the valuation of a company's reserves without cost to the insurer.

Section 1. Definitions. As used in this regulation: (1) "Actuary" means a person whose qualifications as to education and experience correspond to those of a "qualified actuary" as described by the American Academy of Actuaries and published in the Yearbook of that organization. A person who is not a member of that organization who wishes to demonstrate his or her actuarial competence to the commissioner should use that description as a guide.

(2) "Actuarial guidelines" mean a series of interpretive guidelines approved by the NAIC for inclusion in its Handbook for Financial Examiners.

(3) "Life insurance policies, annuities, and pure endowment contracts" includes all such contracts, together with all riders or endorsements and all additional benefits related thereto, whether such additional benefits are provided by policy provision or supplementary contract. A provision whereby the insurer accepts deposits to provide future insurance, annuity, or pure endowment benefits ("funding agreement") is such an additional benefit.

(4) "Guaranteed interest contract" means a contract or contract provision in which the insurer accepts one or more deposits, and on which it agrees to pay interest at one (1) or more specified rates for one (1) or more specified periods of time, but which does not involve the contingencies of mortality or morbidity.

(5) "Special policy" means "coupon" and "charter" policies and any other policy form for which reserve factors are not readily available from published sources.

(6) "Department actuary" means the actuary of the department or an actuary employed by the department for the purpose of making or verifying a valuation.

(7) "Reserve comparison form" means a form setting out three (3) year tabulations of extracts from a company's valuation. It is to be completed by plan, with subtotals by mortality table, interest assumption, and valuation method which will correspond to the line entries in Exhibit 8 of the current annual statement.

(8) "Commissioner" means the Commissioner of the Kentucky Department of Insurance.

(9) "Department" means the Kentucky Department of Insurance.

Section 2. Filing requirements for Domestic Insurers. (1) To facilitate the commissioner's evaluation of the valuation of reserves for life insurance policies, annuities, and pure endowment contracts made by a domestic insurer's actuary or consulting actuary, each such insurer shall furnish the department actuary an affidavit, signed by the actuary responsible for the valuation and setting out insurance amounts and reserves on all such contracts by basis of valuation and a reserve comparison form.

(2) Each domestic insurer shall maintain in corresponding order, with the necessary documentation, lists, tabulations, and working papers for policy contract obligations to be valued which shall be in readily accessible and auditable form at its home office.

(3) Each domestic insurer which has any special policies to be valued shall maintain in its home office a file for each such policy form in force which will include a specimen policy, formula used to arrive at the mean reserve, and a factor table of the various factors by age at issue distributed for the in-force durations considered. Companies subject to this requirement which file such policies for approval on or after the effective date of this regulation shall include such formulae in the filing, together with sufficient detail to establish that the reserves established make a good and sufficient provision for un-matured obligations of the company guaranteed under such policies.

Section 3. Valuation Principles. (1) Extra-territoriality. KRS 304.6-130(1) provides that the commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the standards set out therein. While it is not anticipated that it will be a frequent occurrence, the commissioner reserves the right to question any such valuation which does not appear to comply with those standards.

(2) Nature of liabilities. Most of the liabilities covered by reserves for life insurance policies, annuities, and pure endowment contracts are generated by recognition of obligations to provide future sums of money, which are guaranteed in such contracts, and the standards of valuation set out in KRS 304.6-140 through 304.6-180, are set out in such "prospective" terms. KRS 304.15-410 points out that such methods are not always possible to apply directly. In such instances, "retrospective" methods, using accumulations at appropriate rates of interest are acceptable; however, a company using such methods should be prepared to demonstrate that such methods actually result in sufficient amounts to fund any obligations set out in its contracts as guarantees of future performance. Obligations which arise from known past events are, of course, valued retrospectively.

Section 4. Specific Requirements. (1) Interest assumptions. KRS 304.6-145(4) refers to two (2) specific bond yield averages which underlie the reference interest rates specified in KRS 304.6-145. The Moody's Corporate Bond Yield Averages referenced are those for the period ending July 1 for each calendar year shown. These were:

Calendar Year	Average over period ending July 1	
	Of a 12-month period	Of a 36-month period
1979	9.49%	8.92%
1980	11.51	9.89
1981	13.71	11.57
1982	15.70	13.64
1983	13.39	14.26

A table of current statutory calendar year interest rates is required each year and is herein filed by reference. Copies of the most recent such table may be obtained from the department.

(2) Actuarial guidelines. The actuarial guidelines will be used as published unless specifically prohibited by statute.

(3) Mortality tables.

(a) "1983 Table 'a'" means that mortality table developed by the Society of Actuaries Committee to Recommend a New Mortality Basis for Individual Annuity Valuation and adopted as a recognized mortality table for annuities in June, 1982 by the NAIC.

(b) "1983 GAM Table" means that mortality table developed by the Society of Actuaries Committee on Annuities and adopted as a recognized mortality table for annuities in December, 1983 by the NAIC.

(c) The 1983 Table "a" is recognized and approved as an individual annuity mortality table for valuation and, at the option of the company, may be used for purposes of determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after July 1, 1976.

(d) The 1983 Table "a" is to be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1985.

(e) The 1983 GAM Table and the 1983 Table "a" are recognized and approved as group annuity mortality tables for valuation and, at the option of the company, either table may be used for purposes of valuation for any annuity or pure endowment purchased on or after July 1, 1976, under a group annuity or pure endowment contract.

(f) The 1983 GAM Table is to be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 1985, under a group annuity or pure endowment contract. The commissioner will give consideration to the approval of other tables of mortality which produce lower reserves in any special case, when the request for such approval is accompanied by an actuarial report, signed by the responsible actuary, of the reasons for such request. Where possible, such report should include an estimate of the degree of protection against insolvency provided as margin in the proposed table.

(4) Changes of method (domestic insurers). The effects of changes in the methods of valuing life contracts must be reported in "Exhibit 8A" of the annual statement in the year in which the change first takes place. "Exhibit 8A" should show the old and the new method of valuation, and the increase or decrease in the actuarial reserve due to the change. When adopting a method that produces an increase in the reserve, the company should notify the department. However, when a change will produce a reserve that will be less than the amount under the old method, the company must have the prior approval of the commissioner.

Section 5. Penalty for Non-Compliance. (1) When such material is not available as outlined above, the additional burden of cost for additional time required by the staff of the Department of Insurance, or its actuary, will be borne by the life insurance company as provided for in KRS 304.2-290. A special examination may be ordered by the commissioner, providing for a written report to him together with a time and expense billing to the company so examined.

(2) Whenever a detail audit of reserves reveals that an error was made in the filed annual statement and in the certificate issued by the department, the commissioner may, in his discretion, order the withdrawal of certification and reissuance of certificates and copies, and require a refiled NAIC annual statement on a significant error, or prescribe corrective internal procedures in the company prior to the next filed NAIC statement form when the resultant error is not significant.

Section 6. Severability. If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of this regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 7. Effective Date. This regulation shall become effective upon completion of its review pursuant to KRS Chapter 13A.

GIL MCCARTY, Commissioner
MELVIN WILSON, Secretary

APPROVED BY AGENCY: September 13, 1984

FILED WITH LRC: September 14, 1984

PUBLIC HEARING SCHEDULED: Persons with an interest in the subject matter of the proposed regulation may attend a hearing scheduled for October 22, 1984, at 10 a.m. (ET) at the offices of the Kentucky Department of Insurance, 229 West Main Street, Frankfort, Kentucky 40601. Written comments may be submitted to Gil McCarty, Commissioner, at the above address. Written comments must be received by the day of the hearing scheduled above.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Patrick Watts, Counsel (502) 564-6036

Need for the Proposed Regulation: The proposed regulation is necessary to assist the Commissioner of Insurance in the valuation of life insurance reserves. The proposed regulation establishes guidelines and procedures for the certification of life insurance reserves. The proposed regulation is in part based upon a model regulation of the National Association of Insurance Commissioners and in part upon a regulation adopted by the state of Illinois.

Type and number of entities affected: The proposed regulation affects the fifteen domestic life insurers.

1. Direct or Indirect Cost or Savings to Those Affected: There will be cost in producing the "Reserve Comparison Form" (Section 1(7)) if insurers are not already using this form. Insurers will realize savings in the fees of actuaries appointed by the department to investigate reserves. By submitting the appropriate report, reserves can be certified in the offices of the Department of Insurance rather than by department actuaries traveling to the administrative offices of life insurers.

2. Reporting and Paperwork Requirements: The proposed regulation creates the "Reserve Comparison Form." For its purpose, see above.

Effects on the Promulgating Administrative Body: The proposed regulation makes it simpler to certify the reserves of domestic life insurers because actuaries will not have to be sent to the offices of life insurers. Based upon the reports submitted by life insurers, reserves may be certified in the offices of the department.

Assessment of Anticipated Effect on State and Local Revenues: None.

Assessment of Alternative Methods; Reasons Why Alternatives Were Rejected: The current procedure of having actuaries travel to the administrative office of life insurers is expensive. It is necessary to have actuaries certify these reserves in order to protect the public. In some states, clerical personnel simply copy exhibit 8 of each life insurer's annual statement. The proposed regulation makes it easier to provide greater protection for the public.

Statutes, Rules, Regulations, or Governmental Policies Which May Conflict, Overlap or Duplicate the Proposed Regulation: None

Tiering:

Was tiering applied? No. Tiering was not applied due to the statutory requirement that all domestic life insurers have their reserves certified.

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance

806 KAR 6:080. Reserve standards for individual health insurance policies.

RELATES TO: KRS 304.6-070, 304.17-275

PURSUANT TO: KRS 304.2-110, 304.6-070

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.6-070 provides that the Commissioner of Insurance shall issue regulations establishing minimum standards for reserves for individual health insurance policies.

Section 1. Active Life Reserves. (1) General.

(a) Active life reserves are required for all in-force policies and are in addition to any reserves required in connection with claims. For policy Types A, B, and C, described in subsection (2) of this section, the minimum reserve is determined as specified herein.

(b) It is emphasized, however, that these are minimum standards and that KRS 304.6-070 requires that higher, adequate reserves be established by the insurer in any case where experience indicates that these minimum standards do not place a sound value on the liabilities under the policy. For policy Type D, the minimum reserve should be the gross pro rata unearned premium (premium reserve).

(2) Types of individual health insurance policies.

(a) Type A—Policies which are guaranteed renewable for life or to a specified age, such as sixty (60) or sixty-five (65), at guaranteed premium rates.

(b) Type B—Policies which are guaranteed renewable for life or to a specified age, such as sixty (60) or sixty-five (65), but under which the insurer reserves the right to change the scale of premiums.

(c) Type C—Policies in which the insurer has reserved the right to cancel or refuse for one (1) or more reasons, but has agreed implicitly or explicitly that, prior to a specified time or age, it will not cancel or decline renewal solely because of deterioration of health after issue; however, policies shall not be considered of this type if the insurer has reserved the right to refuse renewal provided the right is to be exercised at the same time for all policies in the same category, if premiums are graded so as to be substantially proportionate to the costs of insurance at the various attained ages. Policies which comply with KRS 304.27-275, on which premiums are based on issue age are of this type.

(d) Type D—All other individual policies.

(e) The above does not classify "franchise" as a type of policy. Such policies are frequently written under an agreement limiting the insurer's right to cancel or refuse renewal. Usually the right is reserved to refuse renewal of all policies in the group or other categories such as those ceasing to be members of the association, and this would place such policies in Type D in accordance with the last clause under paragraph (c) of this subsection. However, if premiums are based on the level premium principle in which any reflection of age is on the basis of age at issue,

or if the renewal undertaking for the individual meets the requirements for Type A, B, or C, the franchise policy should be so classified for reserve purposes.

(f) A policy may have guarantees qualifying it as Type A, B, or C until a specified age or duration after which the guarantees, or lack of guarantees, may qualify it as Type A, B, C, or D. In such case, the policy in each period should be considered for reserve purposes according to the type to which it then belongs.

(g) Where all of the benefits of a policy, as provided by rider or otherwise, are not of the same Type (A, B, C, or D), each benefit should be considered for reserve purposes according to the type to which it belongs.

(3) Reserve standards for policies of Type A, B, or C.

(a) Interest. The maximum interest rate for reserves should be the greater of:

1. the maximum rate permitted by law in the valuation of currently issued life insurance, or
2. the maximum rate permitted by law in the valuation of life insurance issued on the same date as the health insurance.

(b) Mortality. The mortality assumptions used for reserves should be according to a table permitted by law in the valuation of life insurance issued on the same date as the health insurance.

(c) Morbidity or other contingency. Minimum standards with respect to morbidity are those stated in Appendix A of this regulation, which is subject to revision from time to time with respect to dates of issue of contracts.

(d) Negative reserves. Negative reserves on any benefit may be offset against positive reserves for other benefits in the same policy, but the mean reserve on any policy should never be taken as less than one-half ($\frac{1}{2}$) the valuation net premium.

(e) Preliminary term. The minimum reserve shall be on the basis of two (2) years preliminary term.

(f) Reserve method. Mean reserves diminished by appropriate credit for valuation net deferred premiums. In no event, however, should the aggregate reserve for all policies valued on the mean reserve basis, diminished by any credit for deferred premiums, be less than the gross pro rata unearned premiums under such policies.

(g) Alternative valuation procedures and assumptions. Provided the reserve on all policies to which the method or basis is applied is not less in the aggregate than the amount determined according to the applicable standards specified above, an insurer may use any reasonable assumptions as to the interest rate, mortality rates, or the rates of morbidity or other contingency, and may introduce an assumption as to the voluntary termination of policies. Also, subject to the preceding condition, the insurer may employ methods other than the methods stated above in determining a sound value of its liabilities under such policies, including but not limited to the following:

1. The use of mid-terminal policy reserves in addition to either gross or net pro rata unearned premium reserves;
2. Optional use of either the level premium, the one (1) year preliminary term, or the two (2) year preliminary term method;
3. Prospective valuation on the basis of actual gross premiums with reasonable allowance for future expenses;
4. The use of approximations such as those involving age groupings, groupings of several years of issue, average amounts of indemnity;
5. The computation of the reserve for one (1) policy benefit as a percentage of, or by other relation to, the aggregate policy reserves, exclusive of the benefit or benefits so valued;

6. The use of a composite annual claim cost for all or any combination of the benefits included in the policies valued. For statement purposes the net reserve liability may be shown as the excess of the mean reserve over the amount of net unpaid and deferred premiums, or, regardless of the underlying method of calculation, it may be divided between the gross pro rata unearned premium reserve and a balancing item for the "policy reverse."

(h) Gross unearned preliminary term premium. Where a preliminary term method, either with a one (1) year or two (2) year preliminary term period, is employed, the gross pro rata unearned premium to be used in the comparison set forth in paragraph (f) of this subsection shall bear the same relationship to the net premium for the preliminary term period on the basis of the mortality, morbidity, and interest assumptions used for subsequent valuation as the gross premium charged bears to the net valuation premium used in subsequent years.

Section 2. Claim reserves, present value of amounts not yet due on claims (also called "Disabled Life Reserves" in the case of insurance providing loss-of-time benefits for disability due to accident or sickness).

(1) General. Reserves are required for claims on all health insurance policies, whether of Type A, C, or D, providing benefits for continuing loss, such as loss of time or hospitalization.

(2) Claim reserve standards for total disability due to accident or sickness.

(a) Interest. The maximum interest rate for reserves should be the maximum rate permitted by law in the valuation of life insurance issued on the same date as the date the claim is incurred.

(b) Morbidity. Minimum standards with respect to morbidity are those stated in Appendix A of this regulation, except that for unreported claims and resisted claims and, at the option of the insurer, claims with a duration of disablement option of the insurer, claims with a duration of disablement of less than two (2) years, reserves may be based on the individual insurer's experience or other assumptions designed to place a sound value on the liabilities. Reserves based on such experience or assumptions should be verified by the development of each year's claims over a sufficient period of years along the lines of Schedule O.

(c) For policies with an elimination period, the duration of disablement should be considered as dating from the time that benefits would have begun to accrue had there been no elimination period.

(d) A new disability connected directly or indirectly with a previous disability which had a duration of at least one (1) year and terminated within six (6) months of the new disability should be considered a continuation of the previous disability.

(3) Reserve standards for all other claim reserves.

(a) Interest. The maximum interest rate for reserves should be the maximum rate permitted by law in the valuation of life insurance issued on the same date as the date the claim is incurred.

(b) Morbidity or other contingency. The reserve should be based on the individual insurer's experience or other assumptions designed to place a sound value on the liabilities. The results should be verified by the development of each year's claims over a sufficient period of years along the lines of Schedule O.

(4) Valuation procedures. The insurer may employ suitable approximations and estimates, including but not limited to groupings and averages, in computing claim reserves.

Section 3. Severability. If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 4. Effective Date. This regulation shall become effective upon completion of its review pursuant to KRS Chapter 13A.

GIL McCARTY, Commissioner
MELVIN WILSON, Secretary

APPROVED BY AGENCY: September 13, 1984

FILED WITH LRC: September 14, 1984 at 10 a.m.

PUBLIC HEARING SCHEDULED: Persons with an interest in the subject matter of the proposed regulation may attend a hearing scheduled for October 22, 1984, at 10 a.m. (ET) at the offices of the Kentucky Department of Insurance, 229 West Main Street, Frankfort, Kentucky 40601. Written comments may be submitted to Gil McCarty, Commissioner, at the above address. Written comments must be received by the day of the hearing scheduled above.

APPENDIX A RESERVE STANDARDS FOR INDIVIDUAL HEALTH INSURANCE

Minimum morbidity standards for valuation of individual health insurance policies are as follows:

1. Total disability due to accident or sickness.

Active Life Reserves:

Policies issued on or after January 1, 1965:
The 1964 Commissioners Disability Table.

Claim Reserves:

The minimum morbidity standard in effect for active life reserves on currently issued policies, as of the date the claim is incurred.

2. Hospital Benefits, Surgical Benefits, and Maternity Benefits (either Specified or Expense Reimbursement).

Policies issued on or after January 1, 1955, and before January 1, 1982:

The 1956 Intercompany Hospital-Surgical Tables.

Policies issued on or after January 1, 1982:

The 1974 Medical Expense Tables (Table A).

3. Accidental Death Benefits.

Policies issued on or after January 1, 1965:

The 1959 Accidental Death Benefits Table.

4. All other benefits, including major medical, cancer expense, and other than total disability.

The insurer should adopt a standard which will produce reserves that place a sound value on its liabilities under such benefit. The use of morbidity tables reflecting the insurer's own experience, with suitable margins for stochastic variation is encouraged.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Patrick Watts

Need for the Proposed Regulation: The proposed regulation establishes standards for individual health insurance policy reserves. The proposed regulation is based upon a model regulation of the National Association of Insurance Commissioners.

Type and number of entities affected: The proposed

regulation will affect all insurers authorized to transact health insurance business in Kentucky. There are over 1,100 insurers authorized to transact health insurance in Kentucky, but only half of these are actually transacting health insurance business.

1. Direct or Indirect Cost or Savings to Those Affected: Department records indicate that all domestic insurers are currently in compliance with the guidelines established by the proposed regulation. Therefore, the proposed regulation will not require any additional reserves to be established.

2. Reporting and Paperwork Requirements: None
Effects on the Promulgating Administrative Body: None
Assessment of Anticipated Effect on State and Local Revenues: None

Assessment of Alternative Methods; Reasons Why Alternatives Were Rejected: KRS 304.6-070 requires the proposed regulation to be adopted.

Statutes, Rules, Regulations, or Governmental Policies Which May Conflict, Overlap or Duplicate the Proposed Regulation: None

Tiering:

Was tiering applied? Tiering has been applied in that reserve standards for different types of individual health insurance policies are recognized. See Section 1(2) of the proposed regulation for the different types of individual health insurance policies.

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance

806 KAR 12:110. Merged gender mortality tables for life insurance.

RELATES TO: KRS 304.12-085, 304.15-342

PURSUANT TO: KRS Chapter 13A, 304.2-110, 304.15-342

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.15-342 establishes the use of the 1980 CSO and 1980 CET Tables of Mortality, and provides that any ordinary mortality tables adopted after 1980 by the National Association of Insurance Commissioners (NAIC) may be approved for use in Kentucky by regulation promulgated by the commissioner. The NAIC has adopted certain modifications of the 1980 CSO and 1980 CET tables of mortality for use where necessary. This regulation permits individual life insurance policies to provide the same cash surrender values and paid-up nonforfeiture benefits to both men and women.

Section 1. Definitions. As used in this regulation: (1) "1980 CSO Table, with or without Ten-Year Select Mortality Factor" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the Society of Actuaries Committee to Recommend New Mortality Tables for Valuation of Standard Individual Ordinary Life Insurance, incorporated in the 1980 NAIC Amendments to the Model Standard Valuation Law and Standard Nonforfeiture Law for Life Insurance, and referred to in those models as the Commissioners 1980 Standard Ordinary Mortality Table, with or without Ten-Year Select Mortality Factors.

(2) "1980 CSO Table (M), with or without Ten-Year Select Mortality Factors" means that mortality table con-

sisting of the rates of mortality for male lives from the 1980 CSO Table, with or without Ten-Year Select Mortality Factors.

(3) "1980 CSO Table (F), with or without Ten-Year Select Mortality Factors" means that mortality table consisting of the rates of mortality for female lives from the 1980 CSO Table, with or without Ten-Year Select Mortality Factors.

(4) "1980 CET Table" means that mortality table consisting of separate rates of mortality for male and female lives, developed by the Society of Actuaries Committee to Recommend New Mortality Tables for Valuation of Standard Individual Ordinary Life Insurance, incorporated in the 1980 NAIC Amendments to the Model Standard Valuation Law and Standard Nonforfeiture Law for Life Insurance, and referred to in those models as the Commissioners 1980 Extended Term Insurance Table.

(5) "1980 CET Table (M)" means that mortality table consisting of the rates of mortality for male lives from the 1980 CET Table.

(6) "1980 CET Table (F)" means that mortality table consisting of the rates of mortality for female lives from the 1980 CET Table.

Section 2. General Rule. (1) For any policy of insurance on the life of either a male or female insured delivered or issued for delivery in this state before January 1, 1989, and after the effective date of KRS 304.15-342 for that policy form:

(a) A mortality table which is a blend of the 1980 CSO Table (M) and the 1980 CSO Table (F) with or without Ten-Year Select Mortality Factors may at the option of the company be substituted for the 1980 CSO Table, with or without Ten-Year Select Mortality Factors; and

(b) A mortality table which is of the same blend as used in paragraph (a) of this subsection but applied to form a blend of the 1980 CET Table (M) and the 1980 CET Table (F) may at the option of the company be substituted for the 1980 CET Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

(2) Only the following blended tables as have been adopted by the NAIC may be so used and this regulation formally approves those tables for use in this state.

(a) 100% Male, zero (0) percent Female for tables to be designated as the "1980 CSO-A" and "1980 CET-A" tables.

(b) Eighty (80) percent Male, twenty (20) percent Female for tables to be designated as the "1980 CSO-B" and "1980 CET-B" tables.

(c) Sixty (60) percent Male, forty (40) percent Female for tables to be designated as the "1980 CSO-C" and "1980 CET-C" tables.

(d) Fifty (50) percent Male, fifty (50) percent Female for tables to be designated as the "1980 CSO-D" and "1980 CET-D" tables.

(e) Forty (40) percent Male, sixty (60) percent Female for tables to be designated as the "1980 CSO-E" and "1980 CET-E" tables.

(f) Twenty (20) percent Male, eighty (80) percent Female for tables to be designated as the "1980 CSO-F" and "1980 CET-F" tables.

(g) Zero (0) percent Male, 100% Female for tables to be designated as the "1980 CET-G" tables. Tables (a) and (g) are not to be used with respect to policies issued on or after January 1, 1985, except where the proportion of persons insured is anticipated to be ninety (90) percent or more of one (1) sex or the other or except for certain policies con-

verted from group insurance. Such group conversions issued on or after January 1, 1986, must use Mortality Tables based on the blend of lives by sex expected for such policies if such group conversions are considered as extensions of the Norris decision. This consideration has not been clearly defined by judicial or legislative action in all jurisdictions.

(3) No change in minimum valuation standards is implied by this regulation.

Section 3. Unfair Discrimination. (1) It shall not be a violation of KRS 304.12-085 for an insurer to issue the same kind of policy of life insurance on both a sex distinct and sex neutral basis. However, each such insurer shall establish prior to issue of any such policies which are to be so offered the conditions under which each type will be marketed. Such conditions, together with sufficient information to establish that an unfairly discriminatory condition will not be created, shall be filed with the commissioner for his approval.

(2) It shall, however, be a violation of KRS 304.12-085 to substitute the 1980 CSO Table (M) or 1980 CET Table (M) with ages set back (as permitted with the 1958 CSO Table) for the 1980 CSO Table (F) or 1980 CET Table (F).

Section 4. Severability. If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 5. Effective Date. This regulation shall become effective upon completion of its review pursuant to KRS Chapter 13A.

GIL McCARTY, Commissioner
MELVIN WILSON, Secretary

APPROVED BY AGENCY: September 13, 1984

FILED WITH LRC: September 14, 1984 at 10 a.m.

PUBLIC HEARING SCHEDULED: Persons with an interest in the subject matter of the proposed regulation may attend a hearing scheduled for October 22, 1984, at 10 a.m. (ET) at the offices of the Kentucky Department of Insurance, 229 West Main Street, Frankfort, Kentucky 40601. Written comments may be submitted to Gil McCarty, Commissioner, at the above address. Written comments must be received by the day of the hearing scheduled above.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Patrick Watts

Need for the Proposed Regulation: The proposed regulation is based upon a model regulation of the National Association of Insurance Commissioners. The proposed regulation is made necessary by the decision of the United States Supreme Court in *Arizona Governing Committee for Tax-Deferred Annuity and Deferred Compensation Plans v. Norris*, 463 U.S. ___, 103 S. Ct. 3492 (1983). In *Norris*, United States Supreme Court held that employer-sponsored pension plans that pay lower monthly retirement benefits to women than to men violate Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq. Thus, federal law prohibits employer-sponsored life insurance and annuity plans from treating employees differently based on sex. The proposed regulation provides guidelines for mortality tables to be used when life insurers treat insureds of different sexes on the same basis. It does

this by requiring that life insurers use mortality tables which accurately reflect the mixture of the group in question.

Type and Number of Entities Affected: All of the approximately 545 life insurers authorized to do business in Kentucky will be affected by the proposed regulation. Also, all people covered under employer-sponsored life insurance programs will be affected.

1. Direct or Indirect Cost or Savings to Those Affected: The proposed regulation will provide savings by clarifying the rules as to mortality tables used by life insurers in connection with employer-sponsored life insurance plans.

2. Reporting and Paperwork Requirements: None
Effects on the Promulgating Administrative Body: Technically, filings using the mortality tables prescribed by the proposed regulation are currently required to be disapproved. The proposed regulation allows the department to recognize life insurance plans which conform to the Norris decision.

Assessment of Anticipated Effect on State and Local Revenues: None

Assessment of Alternative Methods; Reasons Why Alternatives Were Rejected: The United States Supreme Court has established that merged gender mortality tables are necessary where a life insurance plan is sponsored by an employer as compensation. Therefore, there is no alternative to the proposed regulation.

Statutes, Rules, Regulations, or Governmental Policies Which May Conflict, Overlap or Duplicate the Proposed Regulation: Prior to the Norris decision, KRS 304.12-080 and 304.12-085 were read as prohibiting the use of merged gender mortality tables. However, the United States Supreme Court has revealed that such an interpretation was erroneous (or even if correct, overridden by federal law) as to employer-sponsored life insurance plans.

Tiering:

Was tiering applied? Tiering has been applied in that the proposed regulation establishes which tables are to be used with groups which have different proportions of male and female members.

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance

806 KAR 39:070. Proof of motor vehicle insurance.

RELATES TO: KRS 186.021, 186A.040, 304.12-020, 304.39-080, 304.39-085

PURSUANT TO: KRS 186.021, 304.2-110, 304.39-300
NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.39-300 provides that the Commissioner of Insurance may make regulations to provide for the effective administration of the Kentucky Motor Vehicle Repairs Act. KRS 186.021 requires the Commissioner of Insurance to adopt regulations prescribing the manner in which proof of compliance with KRS 304.39-080 is presented to county clerks when renewing the registrations of motor vehicles.

Section 1. Definitions. As used in this regulation: (1) "Commissioner" means the Commissioner of the Kentucky Department of Insurance.

(2) "Insurer" means all insurers providing security

covering a motor vehicle pursuant to KRS 304.39 and self-insurers pursuant to KRS 304.39-080 and 806 KAR 39:050.

(3) "Motor vehicle insurance policy" means an insurance contract purporting to provide security covering a motor vehicle pursuant to KRS 304.39.

(4) "Person" has the meaning set forth in KRS 304.1-020.

(5) "Written proof of motor vehicle insurance" means the document prescribed by Section 2 of this regulation.

Section 2. Written Proof of Motor Vehicle Insurance to be Provided by Insurers. (1) Each insurer issuing an insurance contract which provides security covering a motor vehicle shall provide to the named insured on or before January 1, 1985, written proof that the insurer has in effect an insurance contract providing security in conformity with KRS 304.39. Generally, the written proof of motor vehicle insurance should be mailed to the named insured at the latest address of record with the insurer. However, the written proof of motor vehicle insurance may be distributed to the named insured in any manner reasonably calculated to put the written proof of motor vehicle insurance in the possession of the named insured on or before January 1, 1985.

(2) Provision of written proof of motor vehicle insurance for new and renewal motor vehicle insurance policies.

(a) Written proof of motor vehicle insurance shall be provided annually upon renewal of motor vehicle insurance policies.

(b) Each new policy of motor vehicle insurance issued after the effective date of this regulation shall be accompanied by written proof of motor vehicle insurance. Insurers should be aware that new policies of motor vehicle insurance issued shortly before January 1, 1985, should be accompanied by written proof of motor vehicle insurance because of the need to have proof of motor vehicle insurance available for registration renewal following January 1, 1985.

(c) As a general rule, all motor vehicle insurance policies issued or renewed after insurers make the initial delivery of written proof of motor vehicle insurance should be accompanied by written proof of motor vehicle insurance.

(3) Copies of the written proof of motor vehicle insurance.

(a) If the motor vehicle insurance policy covers four (4) or less vehicles, a single written proof of motor vehicle insurance shall be provided for each motor vehicle. Two (2) copies of the written proof of motor vehicle insurance shall be provided for each motor vehicle insured under a motor vehicle insurance policy.

(b) If the motor vehicle insurance policy covers five (5) or more vehicles, copies of the written proof of motor vehicle insurance need not be provided for each vehicle covered by the policy. However, at least one (1) set of duplicates as specified in paragraph (a) of this subsection shall be provided. Insurers shall cooperate with policyholders who have fleet coverage as described in paragraph (b) of this subsection who wish to obtain proof of insurance to be kept in all covered motor vehicles. Proof of insurance provided under these circumstances need not meet all the formal requirements of written proof of motor vehicle insurance as set forth in this regulation.

(4) Guidelines for size and format of the written proof of motor vehicle insurance. The written proof of motor vehicle insurance shall be of a size that allows it to be carried in a billfold or with the motor vehicle registration.

(a) The written proof of motor vehicle insurance shall take one of the following forms:

1. A two and one-fourth (2¼) inch by three and one-half (3½) inch card;

2. A two and one-fourth (2¼) inch by seven (7) inch card with a vertical fold resulting in a two and one-fourth (2¼) inch by three and one-half (3½) inch card; or

3. A four and one-half (4½) inch by three and one-half (3½) inch card with a horizontal fold resulting in a two and one-fourth (2¼) inch by three and one-half (3½) inch card.

(b) Slight variations from the sizes listed in paragraph (a) of this subsection shall be permitted.

(c) The written proof of motor vehicle insurance shall be on white paper with black or blue ink.

(5) Mandatory contents of the written proof of motor vehicle insurance. The written proof of motor vehicle insurance shall prominently display on its face the following information, to appear in approximately the order listed:

(a) Title of the document: "COMMONWEALTH OF KENTUCKY PROOF OF INSURANCE."

(b) The name of the insurance company and its three (3) digit code number assigned by the Department of Insurance.

(c) The name of the named insured.

(d) The effective date of coverage.

(e) The policy number.

(f) The motor vehicle identification: year, make or model, and vehicle identification number of the motor vehicle. If the insurance contract covers five (5) or more motor vehicles, it will state "Fleet."

(6) Optional contents of the written proof of motor vehicle insurance.

(a) At the option of the insurer, the written proof of motor vehicle insurance may include the following information:

1. The insurer's logo.

2. A statement as to how to contact the insurer concerning claims.

3. The insurer's address.

4. The named insured's address.

(b) At the option of the insurer, the information listed in paragraph (a) of this subsection may also be contained on material separate from the written proof of motor vehicle insurance and mailed along with it.

(c) The optional information listed in paragraph (a) of this subsection shall not obscure the mandatory information listed in subsection (5) of this section.

(7) Instructions for use of the written proof of motor vehicle insurance. Insurers shall furnish with the written proof of motor vehicle insurance instructions to the effect that one (1) copy of the written proof of motor vehicle insurance must be given to the county clerk for registration renewal and that the other copy should be kept in the vehicle it relates to or, in the case of a motor vehicle insurance policy covering five (5) or more motor vehicles, in the insurance records of the named insured.

(8) Optional filing and approval of the written proof of motor vehicle insurance with the commissioner; disapproval of the written proof of motor vehicle insurance by the commissioner.

(a) At the option of the insurer, the written proof of motor vehicle insurance may be filed with the commissioner for approval. No insurer shall be subject to disciplinary action by the commissioner as long as the approval provided for by this paragraph remains in effect.

(b) The commissioner may disapprove an insurer's written proof of motor vehicle insurance or its use if he finds that it violates this regulation, any provision of the Ken-

tucky insurance code or regulations, or that the insurer's written proof of motor vehicle insurance or its use is unfair or deceptive.

(9) In light of the provisions of KRS 186A.040 and 304.39-085 requiring information on motor vehicle insurance cancellations and nonrenewals to be reported to the Transportation Cabinet and placed on the automated vehicle information system and further requiring the Transportation Cabinet to notify the named insured to obtain replacement motor vehicle insurance following cancellation or nonrenewal of a motor vehicle insurance contract, the fact that a person has in his or her possession a written proof of motor vehicle insurance for an insurance contract which has been terminated shall not be construed as meaning that the insurance contract is in effect.

Section 3. Alternative Methods of Proving Motor Vehicle Insurance. A person may use the following alternative methods to prove that motor vehicle insurance is in effect when registering a motor vehicle:

(1) A certificate of insurance issued by a general lines insurance agent licensed by Kentucky. The certificate shall be on a form prescribed by the commissioner.

(2) The county clerk's review of the records contained in the automated vehicle information system.

(3) An insurance contract with a declaration page attached showing that the policy is in effect at the time the motor vehicle is being registered.

(4) When the owner of the motor vehicle is serving in the armed forces outside Kentucky, an affidavit by the provost marshal of the base where such person is stationed stating that the motor vehicle in question is covered by an automobile liability insurance policy.

Section 4. Information to be Submitted by Insurers on Cancellation and Nonrenewal of Motor Vehicle Insurance Policies. (1) Insurers shall consider submitting information on cancellations and nonrenewals on computer tape.

(2) Any such information on computer tape shall be on computer tape compatible with standards prescribed by the Department of Vehicle Regulation and the Department of Information Systems.

(3) Any such information in writing shall be in the form prescribed by the Department of Vehicle Regulation.

(4) Information required upon cancellation and nonrenewal.

(a) If the motor vehicle insurance policy covers four (4) or less motor vehicles, insurers shall provide the following information:

1. Vehicle identification number(s).

2. Year(s) and make(s) or model(s) of the motor vehicle(s).

3. Name of the named insured.

4. Policy number.

5. Company code.

6. Effective date of the termination of the motor vehicle insurance policy.

(b) If the motor vehicle insurance policy covers five (5) or more motor vehicles, insurers shall provide the information required by paragraph (a) of this subsection, except that the vehicle identification numbers, years, and makes or models of the covered motor vehicles need not be given. In place of this information, the notice will state "Fleet."

Section 5. Severability. If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of this regulation and the application of such pro-

vision to other persons or circumstances shall not be affected thereby.

Section 6. Effective Date. (1) This regulation shall become effective January 1, 1985.

(2) However, insurers should be aware that the requirements of this regulation contemplate considerable preparatory activities on their part prior to January 1, 1985, in order to comply by that date.

GIL McCARTY, Commissioner
MELVIN WILSON, Secretary

APPROVED BY AGENCY: September 14, 1984

FILED WITH LRC: September 14, 1984 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing concerning the proposed regulation will be held on October 22, 1984, at 10 a.m., (ET), at the offices of the Kentucky Department of Insurance, 229 West Main Street, Frankfort, Kentucky 40601. Persons with an interest in the subject matter of the proposed regulation may submit at least five days before the scheduled hearing written comments to Gil McCarty, Commissioner, Kentucky Department of Insurance, P.O. Box 517, Frankfort, Kentucky 40602.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Patrick Watts, Counsel (502) 564-6036

Need for the Proposed Regulation: KRS 186.021, as amended by House Bill 42 (1984 Ky. Acts c. 129 Sec. 1, eff. January 1, 1985) and House Bill 860 (1984 Ky. Acts c. 391 Sec. 7, eff. January 1, 1985) requires the Commissioner of Insurance to issue regulations prescribing the manner in which motor vehicle insurance is proven to county clerks in order to renew the registration of a motor vehicle. Under the proposed regulation, if a motor vehicle insurance policy covers less than five motor vehicles, the proposed regulation requires insurers to provide identification cards to their policyholders in duplicate sets for each motor vehicle insured under the policy. One of the cards is to be given to the county clerk upon renewal of registration and the other is to be kept in the motor vehicle. If the motor vehicle insurance policy covers five or more motor vehicles, a single duplicate set of identification cards is issued to the policyholder. The identification card states that the motor vehicle insurance policy covers "all owned or leased vehicles." One of the identification cards is given to the county clerk upon renewal of registration and the other is retained by the policyholder.

The proposed regulation provides that insurers shall furnish identification cards to all policyholders by January 1, 1985. All policies delivered after the initial issuance of identification cards will be accompanied by identification cards.

It was originally thought that a single identification card could be issued for each motor vehicle insurance policy. This identification card would have listed the covered motor vehicles and would have been shown to the county clerk upon renewal of registration. However, county clerks believe that their liability would increase if they were not permitted to retain some documentation that proof of motor vehicle insurance had been presented. Therefore, it was necessary to develop the duplicate card system on a vehicle-by-vehicle basis.

The proposed regulation specifies the form and content of the identification card. Alternative form and content guidelines are made available where possible, but it is im-

portant to retain a certain amount of uniformity to assist county clerks in the registration renewal process.

There will not be an exclusive source for the identification card. It may be produced by insurers or by printing firms which contract with insurers. Both have expressed interest in producing the identification card.

The proposed regulation establishes a certain number of alternative forms of proof of motor vehicle insurance. The principal concern is that it would be unreasonable to prohibit the use of such forms of proof.

The proposed regulation defines the information to be submitted by insurers to the Department of Vehicle Regulation upon cancellation or nonrenewal of a motor vehicle insurance policy. The information required by the proposed regulation is adequate to allow county attorneys to take action pursuant to KRS 186A.040 and other applicable laws.

The proposed regulation provides that the computer tape specifications for reporting cancellations and nonrenewals is to be established by the Department of Vehicle Regulation and the Department of Information Systems. The form of written notice of cancellations and nonrenewals will be established by the Department of Vehicle Regulation. These departments have proposed specifications and this proposal was circulated to the insurance industry in late August, 1984.

Type and Number of Entities Affected: The proposed regulation will affect the approximately 500 insurers authorized to write motor vehicle insurance in Kentucky as well as the approximately 20 motor vehicle self-insurers approved by the Department of Insurance. The proposed regulation will affect all persons renewing motor vehicle registrations in 1985 and subsequent years.

1. Direct and indirect costs or savings to those affected: The principal cost associated with the implementation of the statutory provisions comes from the statutes themselves, not from the proposed regulation. By providing flexibility in size and format, the proposed regulation attempts to permit insurers to realize savings where possible. Further, the proposed identification card system will be less expensive than the present sticker system.

2. Reporting and Paperwork Requirements: The reporting requirements for cancellation and nonrenewal of motor vehicle insurance policies is imposed by statute, not by the proposed regulation. The Department of Information Systems, the Department of Vehicle Regulation, county clerks, and the Department of Insurance have worked with the insurance industry to develop guidelines for reporting which may be easily implemented by insurers.

Effects on the Promulgating Administrative Body: The Department has done extensive work on the proposed regulation, but once the regulation is implemented, the Department will have only minor responsibilities (e.g., updating lists of authorized insurers for the Department of Vehicle Regulation and Department of Information Systems). The main responsibilities for carrying out the law rest with county clerks, the Department of Vehicle Regulation, the Department of Information Systems, and county attorneys.

Assessment of anticipated effect on state and local revenues: None

Assessment of alternative methods; reasons why alternatives were rejected: None because KRS 186.021 requires the Department of Insurance to promulgate this regulation.

Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

Tiering:

Was tiering applied? A system for proof of motor vehicle insurance to be used throughout all 120 counties of the Commonwealth requires uniformity, and, therefore, it has been difficult to develop any tiering distinctions. However, the Department has attempted to provide alternative means of accomplishing the goals of the proposed regulation where possible. For example, the different guidelines for size and format of the identification card and the use of alternative means of proving motor vehicle insurance.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Proof of Motor Vehicle Insurance

SPONSOR: Department of Insurance

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE: No.

TYPE OF MANDATE:

LEVEL(S) OF IMPACT:

BUDGET UNIT(S) IMPACT:

FISCAL SUMMARY:

MEASURE'S PURPOSE: Prescribes form of proof to be presented to county clerks for renewal of motor vehicle registration. Also, prescribes information insurers are to give to the state when motor vehicle insurance policies are cancelled or nonrenewed.

PROVISION/MECHANICS: Insurers will, in the typical situation, give two (2) copies per vehicle of an identification card to the policyholder. When a motor vehicle registration is renewed, one (1) copy is given to the county clerk and the other retained by the policyholder.

FISCAL EXPLANATION: No fiscal impact for county clerks because their responsibility to examine proof of motor vehicle insurance is established by KRS 186.021, not the proposed regulation. The identification card is produced by insurers, not state or local governments.

DATA SOURCE: HB 42 (1984 Ky. Acts c. 129); HB 860 (1984 Ky. Acts c. 391)

PREPARER: Patrick Watts, Counsel, Kentucky Department of Insurance, 564-6036

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**Minutes of the September 10-11, 1984 Meeting**

The September meeting of the Administrative Regulation Review Subcommittee was held on Monday, September 10, 1984 at 2 p.m. and on Tuesday, September 11, 1984 at 10 a.m. in Room 103. Representative Bill Brinkley, Chairman, called the meeting to order, and the secretary called the roll. On motion of Senator Quinlan, seconded by Senator Travis, the minutes of the August 6-7, 1984 meeting were approved. Present were:

Members: Representative Bill Brinkley, Chairman; Senators Pat McCuiston, Bill Quinlan, and Joe Lane Travis; and Representatives James Bruce, Albert Robinson, and Greg Stumbo.

Guests: Representatives Gerta Bendl, Hank Hancock, Don Blandford; Edward A. Farris, Catherine Staib, Alcoholic Beverage Control Board; Bob Arnold, David Boswell, Carl Dills, Thomas E. Dowler, Charles Prebble, Tom Troth, J. D. Wolf, Department of Agriculture; Gary Bale, Melissa Briscoe, Sidney Simandle, Department of Education; Charles D. Wickliffe, Finance and Administration Cabinet; John D. Cole, R. Rick Jones, Ella Robinson, Department of Financial Institutions; Jim Durell, Bill Graves, Department of Fish & Wildlife Resources; Marge Brock, Barbara Coleman, Dudley J. Conner, Don Dixon, Ked Fitzpatrick, Odella Furnish, Jim Heth, N. Clifton Howard, Ken Jackson, Fred James, Greg Lawther, David M. Nichols, Karen O'Connell, Sharon Rodriguez, Rob Williams, Larry Wilson, Cabinet for Human Resources; Judith Walden, Department of Housing, Buildings and Construction; J. Alex Barber, Martha L. Hall, Hisham M. Saaid, Natural Resources and Environmental Protection Cabinet; Dave Nicholas, Division of Occupations and Professions; Ava Crow, Gayla Oldham Peach, Protection and Advocacy Division; David L. Balch, George M. Catlett, Robert Cox, Sim McCarty, Nancy H. Miracle, John Penrod, Sandra G. Pullen, Bruce S. Siria, David E. Smith, Transportation Cabinet; Bill E. Cooper, Barren River ADD; Robert L. McFalls, Bluegrass Area Development District, Inc.; Shirley S. Druggan, Pat Kelley, Caretenders; Linda K. Howard, Franklin County Council on Aging; Etta Ruth Kepp, Governor's Office for Policy and Management; Ir-

ving M. Lipetz, Pat Rupp, Kentucky Association for Older Persons; Herbert D. Liebman, Steven Milby, Marilyn H. Pierce, Kentucky Association of Plumbing, Heating, Cooling Contractors, Inc.; John B. Hooton, Kentucky Credit Union League; James Kimbrough, Kentuckiana Regional Planning & Development Agency; James S. Judy, KAHCF; Frances Weber, KIPDA; Charles Dibowski, KCCOA; Angela J. Cheak, Lexington Long-term Care Ombudsman Program; Craig Evans, Jessie Martin, Master Care-Family Services, Inc.; Joanne Bell, Self Ed Lexington Long-term Care Ombudsman Program; Debi Davis, Seton Home Health Services, Inc.; Pam Sanders, Tri-County Council for Senior Citizens; Larry Davis, Knox & Whitley County Health Departments; Lynn Roaden, Whitley County Health Department.

LRC Staff: Susan Harding, Collie Marshall, Shirley Hart, Joe Hood, Gregory Karambellas, Chris Lilly, Matt Patrick, Carol Whitty, Scott Payton, Paula Payne and Carla Arnold.

905 KAR 8:060. Older Americans Act state plan.

905 KAR 8:120. Homecare policy manual for the elderly. (Senator Travis suggested that the material incorporated by reference in this regulation be made a part of the body as the material was not bulky or cumbersome.) Representative Gerta Bendl appeared before the subcommittee to recommend that the above regulations be approved. The subcommittee had no objections.

401 KAR 61:165. Existing primary aluminum reduction plants.

In discussion of the above regulation, the subcommittee suggested that the state plan in Section 2 be incorporated by reference. The agency responded that the state plan is based on regulations that are in effect and is not a part of the regulation. The subcommittee then had no objections.

302 KAR 16:010. Procedure for obtaining a permit for operating amusement rides or attractions.

302 KAR 16:020. Operation of amusement rides or attractions.

The subcommittee had no objections to the above regulations after a technical amendment was agreed to by adding a statute cite in the "Relates to" line of the regulations.

302 KAR 16:030. Determination of safety violations which cannot be corrected immediately.

Senator Travis questioned the efficiency of amusement ride inspectors in discussion of the above regulation, and the agency responded that the new inspectors had received adequate training offered through seminars held by amusement ride experts. The Subcommittee had no objections to this regulation after a technical amendment changing the word "presumed" to the words "cited as."

302 KAR 20:160. Control of viral equine arteritis.

302 KAR 34:010. Definitions.

The Department of Agriculture requested that the above regulations be deferred after questions were raised by the subcommittee.

302 KAR 20:150. Restriction of transportation of livestock infected with a communicable disease.

401 KAR 49:010. General planning and management provisions for solid waste.

401 KAR 49:020. Submission of area plan.

401 KAR 49:030. Designation as a solid waste management area.

401 KAR 49:040. Solid waste planning assistance program.

The subcommittee had no objections to the above listed regulations.

902 KAR 10:110. Onsite sewage disposal system installation permits.

In discussion of the above regulation, Representatives Brinkley and Bruce, and Senator McCuiston stated that in their opinion the statute relating to this regulation was vague and unclear. However, they felt that this regulation should be amended to restrict the granting of permits for installation of onsite sewage disposal systems to master plumbers. The subcommittee approved this attachment of this statement to the regulation 3-2.

902 KAR 20:132. Certificate of need expenditure minimums.

The above regulation was deferred at the agency's request:

602 KAR 15:020. State aid for airport development projects.

The subcommittee and agency agreed to a substantive amendment in order to give notice of the restrictions in funds provided under the Utility Airport Maintenance Fund. The subcommittee had no objections to the above regulation as amended.

902 KAR 12:080. Policies and procedures for mental health/mental retardation facilities.

In discussion of the above regulation, an objection was raised that KRS Chapter 210 does not give the Cabinet for Human Resources the specific authority to promulgate personnel policies for mental health/mental retardation facilities, and that such authority was delegated to the Personnel Board and the Commissioner of Personnel under KRS Chapter 18A. However, Representative Bruce moved that since KRS Chapter 210 does give the Cabinet the general authority to pro-

mulgate regulations relating to the operation of MH/MR facilities, the regulation be approved. The motion was seconded and passed, with Senator Travis objecting.

904 KAR 1:036. Amounts payable for skilled nursing and intermediate care facility services.

In discussion of the above regulation, Representative Bendl appeared before the subcommittee to express her concern that questions raised at the public hearing on this regulation were not sufficiently answered. She also stated that she felt the funding formula was too complex and felt the subcommittee should look more closely at this regulation. On motion made by Representative Bruce and seconded by Senator McCuiston, the subcommittee moved to approve the regulation with the attached statement that some members felt questions arising from the public hearing were not sufficiently answered.

At Representative Stumbo's suggestion, the Subcommittee recommended that the Health and Welfare Committee review the regulation listed above and propose amendments to the statute relating to skilled nursing and intermediate care facility services for the next session of the General Assembly.

905 KAR 8:020. Homecare standards.

In discussion of the above regulation, public comments were presented to the subcommittee concerning duplication of services of home health aide. The agency responded that there was no duplication and that this regulation provided for an additional method of home care for the elderly. The subcommittee had no objections.

The subcommittee had no objections to the following regulations:

200 KAR 5:308. Small purchase procedures.

201 KAR 23:030. License renewal; fee.

301 KAR 2:190. Falconry and raptor propagation. (Subcommittee and agency agreed to a technical amendment to incorporate material cited by reference.)

302 KAR 16:040. Correction of safety violations and right to re-inspection. (Subcommittee and agency agreed to a technical amendment to meet staff reviewer's objection.)

302 KAR 16:050. Licensing fee for amusement rides or attractions.

601 KAR 1:015. Special overweight/overdimensional permits issued at highway district offices and the Transportation Cabinet in Frankfort.

601 KAR 9:011. Handicapped license plates.

601 KAR 9:013. National Guard license plates.

601 KAR 13:040. Motor vehicle accident prevention course.

602 KAR 15:010. Airport development loans.

603 KAR 7:020. Non-urbanized public transportation program. (Subcommittee and agency agreed to technical amendment by adding a statute cite to the "relates to" line in this regulation.)

603 KAR 7:030. Elderly and handicapped public transportation program. (Subcommittee and agency agreed to technical amendment by adding a statute cite to the "relates to" line in this regulation.)

603 KAR 7:040. Public transportation capital assistance program.

603 KAR 7:050. Local rail service assistance program.

603 KAR 7:060. Urbanized area transportation planning.

603 KAR 7:070. Carpool project.
 702 KAR 1:115. Annual in-service training of district board members.
 702 KAR 3:100. Data form, professional staff.
 702 KAR 3:190. Maximum class sizes.
 704 KAR 3:035. Annual in-service plan.
 704 KAR 20:070. Provisional high school certificate.
 704 KAR 20:076. Elementary teacher's endorsement for middle grades.
 704 KAR 20:078. High school teacher's endorsement for middle grades.
 704 KAR 20:080. Provisional middle grades certificate.
 704 KAR 20:285. Deletion of certification information.
 704 KAR 20:290. Certification for early elementary level.
 704 KAR 20:300. Adjunct instructor certificate.
 705 KAR 4:205. Vocational certificate of completion.
 804 KAR 4:250. Special temporary licenses.
 804 KAR 9:050. Retail drink liquor license quota.
 808 KAR 3:050. Conduct. (Subcommittee and agency agreed to technical amendment by changing the Department of Banking and Securities to the Department of Financial Institutions.)
 815 KAR 7:010. Administration and enforcement. (Subcommittee and agency agreed to a technical amendment by changing the numbering in Section 6.)
 815 KAR 7:020. Building code.
 815 KAR 7:080. Licensing of fire protection sprinkler contractors.
 902 KAR 6:060. MH/MR manuals for plan & budget instructions, billing instructions, and reimbursement guidelines.
 904 KAR 1:004 and E. Resource and income standard of medically needy.
 904 KAR 1:045. Payments for mental health center services.
 904 KAR 1:055. Payments for primary care center services.
 904 KAR 1:250. Incorporation by reference of materials relating to the medical assistance program.
 904 KAR 2:015. Supplemental programs for the aged, blind, and disabled.
 904 KAR 2:055. Hearings and appeals.

904 KAR 2:140. Supplementary policies for programs administered by the Department for Social Insurance.
 904 KAR 2:150. Incorporation by reference of materials relating to the aid to families with dependent children program.
 904 KAR 2:160. Disability determinations program.
 904 KAR 2:170. Incorporation by reference of materials relating to the child support program.
 904 KAR 2:200. Collections program.
 904 KAR 3:090. Incorporation by reference of materials relating to the food stamp program.
 904 KAR 5:260. Unemployment insurance procedures.
 904 KAR 5:270. Maximum weekly benefit rates.
 904 KAR 6:020. Weatherization assistance for low income persons.
 904 KAR 6:031. Occupational training and experience project.
 905 KAR 1:180. DSS policy and procedures manual.

The following regulations were deferred at the agency's request:

201 KAR 9:023. Endorsement.
 201 KAR 9:024. Application and reregistration forms; personal interviews; hearings.
 201 KAR 9:025. Interpretation and application of KRS 311.571(8).
 201 KAR 9:031. Examinations.
 201 KAR 9:071. Temporary and emergency permits.
 201 KAR 9:082. Informal proceedings.
 302 KAR 20:170. Movement of equine.
 401 KAR 30:010. Definitions.
 401 KAR 31:160. Appendix on basis for listing hazardous waste.
 401 KAR 31:170. Appendix on hazardous waste constituents.
 401 KAR 32:020. Manifest system.
 401 KAR 32:050. Special conditions.
 705 KAR 2:030. Foundation program units.

The subcommittee had no objections to emergency regulations which had been filed.

The subcommittee adjourned at 12 noon on September 11, 1984 until October 8, 1984.

Administrative Register ^{of} *kentucky*

Cumulative Supplement

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NOTE: Emergency regulations expire 90 days from publication or upon replacement.

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302 KAR 16:030E	126	7-12-84
Replaced	401	9-11-84
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302 KAR 16:050E	127	7-12-84
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Replaced	178	8-7-84
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603 KAR 7:020E	142	7-13-84
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603 KAR 7:030E	142	7-13-84
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603 KAR 7:040E	143	7-13-84
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603 KAR 7:060E	144	7-13-84
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603 KAR 7:070E	144	7-13-84
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902 KAR 1:340E	18	5-16-84
902 KAR 4:050E	18	5-21-84
Replaced		6-28-84
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902 KAR 50:100E	27	5-21-84
Replaced	114	8-7-84
904 KAR 1:004E	149	7-6-84
Replaced	280	9-11-84
904 KAR 1:036E	153	7-6-84
Replaced	284	9-11-84
904 KAR 1:045E	544	8-27-84
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904 KAR 1:055E	158	7-6-84
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904 KAR 2:115E	393	7-20-84
904 KAR 2:140E	29	5-16-84
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904 KAR 5:100E	33	5-21-84
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904 KAR 5:130E	34	5-21-84
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904 KAR 5:260E	36	5-21-84
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904 KAR 5:270E	165	7-6-84
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905 KAR 1:150E	39	5-17-84	12 KAR 5:040			400 KAR 2:040	173	8-7-84
Replaced		7-10-84	Amended	615		Amended		
905 KAR 1:170E	166	6-20-84	40 KAR 2:010			400 KAR 2:050	176	8-7-84
Replaced	115	8-7-84	Amended	52	7-1-84	Amended		
905 KAR 1:180E	39	5-17-84	105 KAR 1:010			401 KAR 4:200	176	8-7-84
Replaced	116	8-7-84	Amended	53	8-7-84	Amended		
Resubmitted	544	8-27-84	105 KAR 1:080			401 KAR 5:026	424	
905 KAR 5:030E	166	6-20-84	Amended	616		Amended	177	8-7-84
Replaced	116	8-7-84	106 KAR 1:020			401 KAR 5:200		
905 KAR 6:020E	40	5-17-84	Amended	617		Amended	178	8-7-84
Replaced		6-28-84	107 KAR 1:040	665		401 KAR 6:200		
905 KAR 6:030E	40	5-17-84	109 KAR 9:010	93	8-7-84	Amended	202	
Replaced	117	8-7-84	115 KAR 2:020	306		401 KAR 30:010	179	8-7-84
905 KAR 7:010E	41	5-21-84	Amended	550		Amended		
Replaced		6-28-84	200 KAR 5:308			401 KAR 30:070	210	
905 KAR 7:020E	41	5-17-84	Amended	201	9-11-84	Amended	560	
Replaced	117	8-7-84	200 KAR 9:010			401 KAR 31:040	220	
905 KAR 7:030E	42	5-17-84	Repealed	1	6-15-84	Amended	222	
Replaced		6-28-84	201 KAR 9:021	309		Amended	226	
905 KAR 7:040E	42	5-21-84	Amended	553		401 KAR 31:160	227	
Replaced		6-28-84	201 KAR 9:023	311		Amended	326	
905 KAR 7:050E	167	6-20-84	201 KAR 9:024	311		401 KAR 31:170	568	
Replaced	117	8-7-84	201 KAR 9:025	312		Amended		
905 KAR 7:060E	44	5-21-84	201 KAR 9:031	313		401 KAR 32:020	56	9-11-84
Replaced		6-28-84	201 KAR 9:041	314		Amended	58	9-11-84
905 KAR 7:070E	44	5-21-84	Amended	554		401 KAR 32:050		
Replaced		6-28-84	201 KAR 9:051	314		Amended	61	
905 KAR 7:080E	45	5-17-84	Amended	555		401 KAR 32:100	403	9-11-84
Replaced	118	8-7-84	201 KAR 9:061	315		Amended	96	9-11-84
Resubmitted	545	8-27-84	Amended	556		401 KAR 49:010	179	8-7-84
905 KAR 7:090E	167	6-20-84	201 KAR 9:071	316		Amended	574	10-1-84
Replaced	118	8-7-84	201 KAR 9:081	317		401 KAR 49:020	667	
905 KAR 8:010E	46	5-16-84	Amended	557		Amended	669	
Replaced		6-28-84	201 KAR 9:082	320		401 KAR 49:030	228	
905 KAR 8:020E	546	8-27-84	201 KAR 13:040			Amended	235	
Replaced	376	9-11-84	Amended	55	8-7-84	Amended	576	
905 KAR 8:030E	46	5-16-84	201 KAR 13:050			401 KAR 49:040	331	
Replaced		6-28-84	Amended	56	8-7-84	401 KAR 50:016	577	
905 KAR 8:040E	47	5-16-84	201 KAR 22:031			Amended	237	
Replaced		6-28-84	Amended	415		Amended	578	
905 KAR 8:050E	47	5-16-84	201 KAR 22:040			600 KAR 1:030	517	
Replaced		6-28-84	Amended	417		600 KAR 1:040	518	
905 KAR 8:060E	48	5-16-84	201 KAR 22:052			600 KAR 1:050	520	
Replaced	119	9-11-84	Amended	417		600 KAR 1:060	523	
905 KAR 8:070E	548	8-27-84	201 KAR 22:070			600 KAR 1:070	523	
905 KAR 8:080E	48	5-16-84	Amended	419		601 KAR 1:015	332	9-11-84
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905 KAR 8:110E	49	5-16-84	Amended	420		Withdrawn		9-5-84
Replaced		6-28-84	201 KAR 22:110			601 KAR 9:011	335	9-11-84
905 KAR 8:120E	49	5-16-84	Amended	422		601 KAR 9:013	240	9-11-84
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905 KAR 8:130E	50	5-16-84	Amended	201	9-11-84	601 KAR 9:074	241	
Replaced		6-28-84	301 KAR 1:075			Amended	581	
906 KAR 1:010E	50	5-16-84	Amended	619		Amended	335	9-11-84
Replaced	119	8-7-84	301 KAR 1:140			601 KAR 13:040	337	
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			Amended	422		601 KAR 35:010		9-5-84
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			Amended	401	9-11-84			
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Amended	549	9-11-84	Amended	640		Amended	372	9-11-84
603 KAR 3:051			704 KAR 20:230	641		815 KAR 7:080		
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603 KAR 4:035	246		704 KAR 20:235	644		Amended	74	8-7-84
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603 KAR 5:130	345	8-27-84	704 KAR 20:240	259	9-11-84	Amended	77	8-7-84
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603 KAR 5:140	670	9-11-84	704 KAR 20:245	357	9-11-84	Amended	103	8-7-84
603 KAR 7:020	346	9-11-84	Amended	672		900 KAR 1:011	103	8-7-84
603 KAR 7:030	347	9-11-84	704 KAR 20:270			900 KAR 1:030	103	8-7-84
603 KAR 7:040	348	9-11-84	Amended			900 KAR 1:040		
603 KAR 7:050	349	9-11-84	704 KAR 20:285	259	9-11-84	901 KAR 5:050		
603 KAR 7:060	349	9-11-84	Amended	379	6-28-84	Amended	78	8-7-84
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702 KAR 3:190	352		Amended			902 KAR 4:090	395	8-7-84
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702 KAR 4:030			Amended	186	8-7-84	902 KAR 6:060	653	
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703 KAR 2:010			Amended	64	8-7-84	902 KAR 8:030	106	8-7-84
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703 KAR 2:050			Amended	67	8-7-84	902 KAR 10:080	409	9-1-84
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704 KAR 3:304	591		804 KAR 4:240	361	9-11-84	Amended	279	9-11-84
Amended	353		804 KAR 4:250			Amended	655	
704 KAR 3:320	355		804 KAR 4:260			902 KAR 13:100	526	
704 KAR 3:325	591		804 KAR 7:045			902 KAR 20:006		
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Amended	254		805 KAR 1:110	649		Amended	467	
704 KAR 20:005			Amended	675		902 KAR 20:016	476	
Amended	624		806 KAR 2:090	676		Amended		
704 KAR 20:035	625		Amended	100	8-7-84	902 KAR 20:066	78	
Amended	627		806 KAR 2:095	678		Amended	478	
704 KAR 20:045			Amended	681		902 KAR 20:132	109	
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704 KAR 20:145			Amended			Amended	284	9-11-84
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			Amended					

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904 KAR 2:015			905 KAR 8:060	119	9-11-84			
Amended	293	9-11-84	905 KAR 8:070	530				
904 KAR 2:016			905 KAR 8:120	119				
Amended	82	8-7-84	Amended	414	9-11-84			
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